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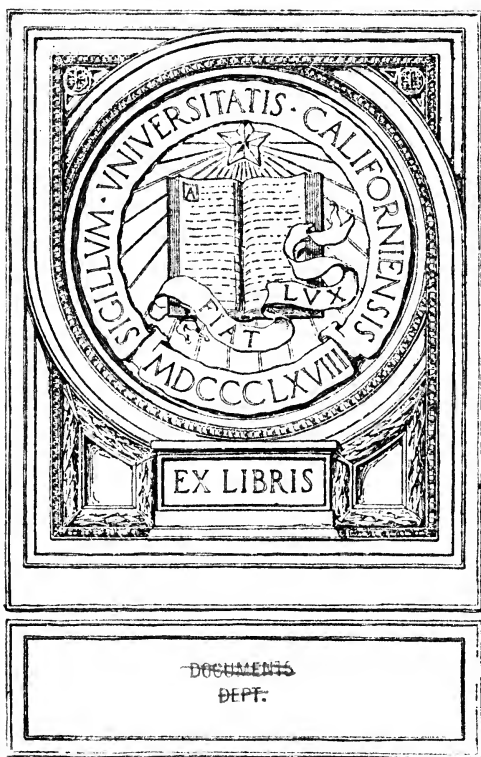
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THE WAR FINANCE ACTS OF 1914 TO 1917.

**An Annotated Reprint of the Income Tax
Provisions of the new Acts.**

By the INCOME TAX EXPERT of "The Accountant."

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Gt. Brit. Laws, statutes, etc., 1910 - (George

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SECOND EDITION.

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LONDON :

GEE & CO. (Publishers) LTD., 34 Moorgate Street, E.C.

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PREFACE.

THE enormous financial effect of the Finance Act, 1915, the Finance (No. 2) Act, 1915, and the Finance Acts of 1916 and 1917, together with the introduction of ameliorative war provisions, makes those Acts of paramount current importance. The notes and explanations following the individual sections are partly reprinted from the weekly Income Tax Notes of *The Accountant*. A list of relevant statutory references to other Acts is given to allow of easy correction of text-books.

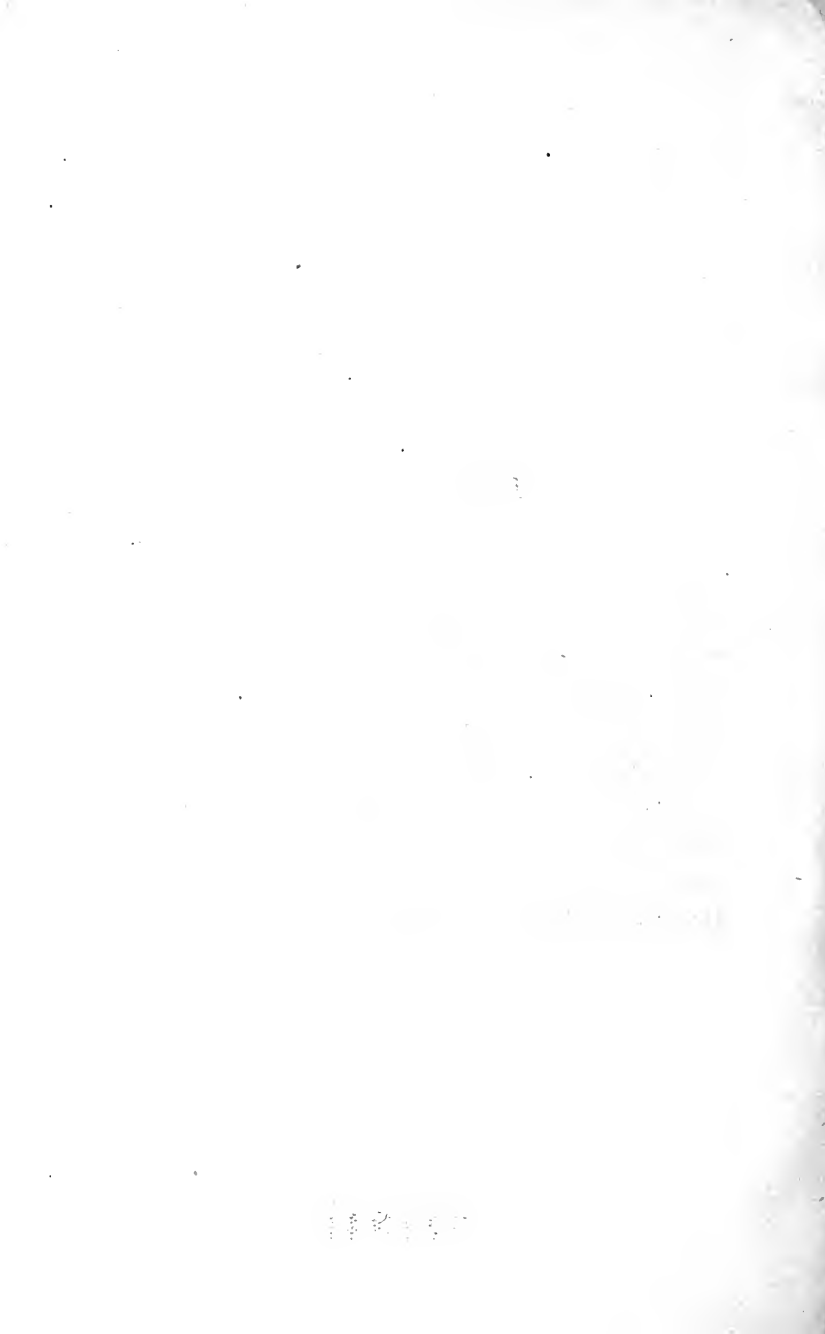


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The War Finance Acts of 1914 to 1917.

Finance (No. 2) Act, 1915.

WHAT is undoubtedly the most momentous measure of national finance, both from the points of view of the accountancy profession and the taxpayer, has become law in the Finance (No. 2) Act, 1915. Its effects on the former are mainly twofold: a general and enormous increase of work, and a recognition of the profession that is of far-reaching significance, and which shows an indisputably sound case for the granting of an official acceptance of the accountancy profession as being the sole and acknowledged representative body. The taxpaying community would obviously benefit by an exclusion of incompetent representatives just as in the cases of the legal and medical professions. The vast increase in taxation on income or profits has a particularly vital effect on the revenue and the taxpayer as regards the securing of assessments which are neither inadequate nor excessive. More-

over, such an official preference would have a tendency to ensure the more general adoption of correct accountancy principles by the trading community ; and this extension of the keeping of proper books is of national significance, as it obviously facilitates the making of correct assessments.

Not only is the present and prospective increase in the income-tax of vast importance, but the Excess Profits Duty, in its magnitude and basis of charge, is a revolutionary impost, for the satisfactory working of which the Revenue must, to a very material extent, rely upon the co-operation of the accountancy profession in regard to the preparation and adjustment of accounts to comply with the statutory requirements. The Board of Referees appointed under the Act contains a welcome representation and recognition of the profession, and the wisdom of that selection will be manifested when the Board actually works, as the particularly relevant qualifications of a qualified and competent accountant are obviously of the utmost and indispensable moment.

In the ascertainment of liability to Excess Profits Duty the many optional methods of assessment will need careful consideration, and the substitution of a capital

percentage—based on the statutory definition of capital—for the pre-war basis will be a vital factor. The general basis of assessment, although no doubt the best that could be devised as giving an approximation to equitable treatment, will operate harshly in many instances, but will demonstrate forcibly the folly of not entrusting the settling of the liability to the accountant who is in a position to claim the relatively obscure concessionary benefits introduced by the Act.

The Act provides that on an application to the Board of Inland Revenue, the Board of Referees shall determine the capital percentages applicable to any class of trade, and to any subdivision of such class, based on any special feature or locality. That capital percentages will vary almost universally is obvious, and it would clearly tend to expedition and smooth working if the Board of Referees could at once commence, without specific applications from taxpayers, to determine and prepare a list of percentages for all trades and subdivisions, which list could then be issued as a Government publication. It would be incongruous to delay matters or to deal in an incomplete manner with what is of peculiar significance. On such a list being available,

and being, in effect, a schedule to the Act, an accountant could readily see whether he should accept assessment on the ordinary basis or claim a reference to capital. The latter option is, of course, controlled materially by the amount of the applicable percentage. A modification of the ordinary basis of assessment is permitted by Section 40 (3), which will be extensively involved. It is there provided that the provision for ascertaining pre-war and war profits and what constitutes capital may be altered in the cases of change in constitution of a partnership ; postponement or suspension, owing to the war, of renewals or repairs ; exceptional depreciation or obsolescence, due to the war, of assets employed in the business ; the provision of plant which will not be required for the particular business after the war, and any other special circumstances specified by the Treasury in Regulations. The concluding sweeping words are wide in their terms, but are restricted by the limitation of other special circumstances to those prescribed by the Treasury. If the latter adopts a generous interpretation of the intentions of the section, which are to meet the exigencies of such special factors as would render the ordinary basis inequitable, much of the prospective controversy will not materialise. The satis-

factory working of the duty is dependent upon a rational and equitable attitude of the Revenue in contradistinction to much that has pertained and does now pertain to income-tax.

The Act has made provisions for preventing evasion of tax by foreigners trading here under such collusive conditions as rendered the past law too narrow, and this is a step which cannot but be welcome. All persons trading or otherwise earning income in this country should bear tax to reimburse the Government for the expenditure incurred in protection of the source of that income, and no relevant objection can be taken to the attainment of that end. It has been advocated that foreigners will cease their trade here when they are brought within the purview of the income-tax ; but this is a fallacy, as a person seeking profits is not likely to abandon a source of trade solely because his expenses have been increased by a burden which is also borne by his competitors. The profits would no doubt exceed the income-tax, and, in any case, no suppliant attitude towards foreigners should be allowed to exist, as it would be grossly unfair to British traders, who are taxed, to exempt a foreigner, carrying on a competitive busi-

ness here, on the ground of the possibility of driving him away from this country.

The increase of the Schedule B charge on farmers should, by reason of the optional basis of assessment on profits, redound to the considerable benefit of the profession, as many farmers who previously ignored accounts will now be forced to obtain professional assistance in regard to general account-keeping as well as to income-tax.

Undoubtedly the new Acts, while introducing a tremendous burden on taxpayers, give the profession an opportunity of vindicating its claim to be recognised as the official means of taxpayers' representation, and it lies with the profession to see that the opportunity does not pass unused. The professional work under the new Act—which is, essentially, for competent control—will be exceptionally heavy, particularly with Excess Profits Duty, but the number of taxpayers who will, for the first time, seek professional assistance, and will subsequently retain it, will repay the additional labour, which is trying at a time of reduced staffs. Satisfactory working and the expediting of settlement of assessments will result if the Revenue is prepared to adopt an attitude of conciliatory equity, which attitude will then be followed by the

profession ; and in this time of stress, when the speedy obtaining of revenue is of paramount importance, the country may unreservedly rely upon the willing assistance of the accountancy profession.

While the new Finance Acts add to the complexity of the income-tax by the introduction of amendments and fresh taxation, consistent with the requirements of the present unexampled financial position, it is fortunate that the majority of the additional law is expressed in terms of reasonable clearness, which is in direct contrast with much of the previous law that can only be characterised as bewilderingly vague.

The main feature of moment is the tax on war profits, which is statutorily termed "Excess Profits Duty." That the imposition of this new departure in taxation would be confronted with many difficult points was always apparent, but the Act has produced a clearly-defined scheme in which the main points of dispute can only be questions of fact as distinct from questions of law ; and as there is a right of appeal on certain points to a board of referees—which is independently constituted—there should not be any anticipatory trouble in settling the assess-

ments. In the first place, the basis of assessment is definite, being 50, 60, or 80 per cent. of the difference between (a) the actual trading profit of the trading period ending after August 4th 1914 (less £200), arrived at on the income-tax principles, but with deduction of those charges, such as interest and royalties, which are taxed by deduction, and (b) the average of any two of the three years preceding that year and ending on the same date. The figures for each of the three years brought into account would, therefore, be the income-tax adjusted profit after allowing charges and specified adjustments. As originally proposed, the pre-war profits were to be the 1914-15 assessable average of the three preceding years.

Under the Income Tax Acts the Revenue's right to accounts is severely restricted from a legal point of view, and an official form of requirement demanding *inter alia* Balance Sheets was opposed by *The Accountant* in its embryo stages, but the new Act enacts, as regards the Excess Profits Duty, that the Board of Inland Revenue, which is the assessing medium, may require (a) returns and (b) such particulars as the Board considers necessary.

As anticipated, the Legislature has not failed to make provision for the case of

artificial reduction of profits by payment of the profits in additional salaries to directors who may hold practically all the shares, a procedure which legitimately operates in income-tax as regards the obtaining of the earned rates. There will, therefore, be a uniformity of incidence which will avoid irritation by an ordinary company being unable to deal with its profits in such a manner. The provisions of prohibition are wide and general in their application, so that no loophole for escape is existent.

In income-tax practice estimates of profits, necessitated by the absence of proper accounts, are on the side favourable to the Revenue, and it is reasonable to assume that this principle will be followed in connection with the Excess Profits Duty, thus penalising to a particularly momentous extent the commercial lack of judgment of a trader in adopting a haphazard method, or rather lack of method, in recording his business transactions.

One welcome innovation of the 1915 (2) Act is the abolition of the necessity of claiming the earned rate by September 30th in each year, and Section 19 (4) of the 1907 Act, which imposed that limit, is repealed, therefore leaving no specified statutory

limitation, but the general repayment provision of Section 10 of the Act of 1860 now applies, as it restricts repayment, where the Legislature has not imposed a shorter period, to three years after the expiration of the year of assessment ; thus the earned rates will be in the same position as abatements and life insurance premiums.

The Finance Act, 1915, reversed the decision in *Inland Revenue Commissioners v. Brooks* on the question of the absolute applicability of the income-tax assessment to super-tax, and the new Act sets aside *Rex v. Kensington Income-tax Commissioners ; ex parte Aramayo*, which decided that assessments on income from foreign and colonial securities and possessions may, under Section 108 of the 1842 Act, be assessed by the Commissioners for London, Bristol, Liverpool, or Glasgow, whichever is nearest to the place at which the income has been imported.

The 1915 (2) Act has one special feature in that it shows the vital significance of the definition and ascertainment of " profits," and also the permanent and indispensable position of the income-tax in our fiscal policy. With this question of profits from trade the accountancy profession is obviously inseparably connected, and as income

or profits will in the future, as in the present, form the premier taxable basis, it may be seen that the profession has before it an expanding branch of work, the intricacy and financial importance of which cannot be questioned when the varying interpretations applicable to the term "profits" are considered. This Act, by its wide scope and enlarged demands, has demonstrated forcibly that a trader who ignores strict methods of accountancy and professional assistance will now be open to such enormous financial risks that the accountancy charges will form a necessary expense to carrying on business in a feasibly successful manner. In the past many traders have suffered inflated assessments owing to the absence of accounts, and, in view of the increased seriousness of such a position, it would have been of material advantage to the business community in general had the Chancellor of the Exchequer referred in the House, on the introduction of the Budget, to the great importance of properly certified accounts being producible. This statement would have had an effect on the official departments of no mean order, as the production of accounts certified by a qualified accountant reduces official labour by the absence of those contentious points inseparable from the consideration of an

assessment which has to be estimated in the absence of reliable figures. The shortage of official staffs and the general increase of work under the Budget would thus have been appreciably counteracted, as it is clearly to the interest of both the Revenue and the taxpayer that certified accounts should be available.

As regards the reduction of the exemption limit to £130, it is noteworthy that the Chancellor followed the course, consistently urged in *The Accountant*, of using the existing machinery instead of following the extensively suggested plan of collecting the tax by means of stamped cards similar to those used for National Health Insurance purposes ; which latter method was, no doubt, favoured by those members of the Cabinet who were intimately connected with the evolution of the Insurance machinery. The direct payment now demanded from an extended number of taxpayers will furnish an efficient method of creating a desirable attitude of intelligent—instead of indifferent—interest in the country's financial expenditure. Direct taxes were in 1916 estimated to produce £161,924,000 compared with £103,750,000 from indirect imposts, and income-tax accounted for £116,424,000 of the former,

which proportion of direct taxation cannot fail to convey a sense of interest in the present condition of affairs. The lowering of the £160 abatement to £120, and the £150 and £120 abatements to £100, is a necessary complement of the reduction in the exemption limit ; but it would appear that a coinciding of the abatement limit with the exemption limit would have been more equitable, as there would have been an avoidance of e.g. an income of £131 being taxed on £11, while an income of £130 escapes.

Satisfaction will undoubtedly be felt, outside official circles, at the collection of the tax by half-yearly instalments, as the heavy burden which the tax now forms renders it necessary that a spreading of the liability should be introduced on the principle applicable to rent being payable at periods less than a year. Undoubtedly an endeavour should be made to remedy inequities, but the income-tax is, by the multitude of introductions such as that now in question, becoming a complicated chaos by which benefits will lose their effect in the sea of obscurity evolved by an unconnected series of ameliorative proposals. There is a limit beyond which it is wise not to proceed, and a tendency to simplicity rather than to

complication would result in more consistent equity than a system of allowances which can only be described as confusing.

The point in the 1915 (2) Act productive of most interest, and having an enormous financial effect, is that of taxation of war profits. While it cannot be denied that the country should appropriate a very considerable proportion of these profits arising from the country's struggle for existence, it is obvious that, as the determining basis of the taxation is the debatable factor of profits, considerable difficulty will be experienced in ascertaining the profits in question, and, unless professional assistance has been obtained and accounts properly prepared, it will be practically impossible to oppose the estimates of the Crown ; so that it is apparent that steps should at once be taken in all cases of probable liability to be in the position of having the profit hall-marked by an accountant's certificate. The difference between the pre-war profit on average and the profits of the accounting period being the taxable excess profits less a uniform allowance of £200, it is clear that inequity may result from the pre-war *average* containing losses referable to particular circumstances, thereby preventing the pre-war average from being a proper

criterion of the real average profit. The financial effect of this point is obvious, but there is, of course, the important factor that no method will give a uniform equity, and that, therefore, a system of approximation is the only practicable course. Fortunately the question of increased capital and other factors has received some attention, and, when the pre-war standard does not represent a statutory percentage on the capital existent on 5th April 1914, that percentage of the capital is to be the basis. Provision is also made for the cases of additional capital being invested during the war, and capital invested during the six years' average having been unremunerative during that period. The excess profit subject to the tax is to be treated as a deduction in arriving at the ordinary income-tax and super-tax assessments.

The abolition of the Schedule B assessment on 1-3rd of the gross annual value and the substitution of the full annual value is a welcome innovation, and the opposition emanating from agricultural constituencies cannot bear criticism on equitable grounds, as a farmer still has an option of assessment on actual profits. The fact that agriculturalists paid in the past on a figure generally much less than the profits is obviously no supportable

ground for contending, in effect, that assessment on actual profits should not obtain.

The further graduation of the super-tax is not unexpected, as if the principle of graduated rates for income-tax is correct, the same graduation of the super-tax cannot be questioned ; and when it is considered that the super-tax is merely an extension of the income-tax on individuals, it will be seen that the past limit of graduation was not supportable.

The emphasis which the Finance Acts have laid on the vital necessity of proper accounting will have the resultant effect of increasing materially the labours of the accountancy profession, and of demonstrating the advantage generally of an abandonment by traders of any method, or lack of method, which is inconsistent with the requirements of sound principles of accounting.

Finance Act, 1914 (Session 2).

This Act, passed on 27th November 1914—the first of the War Finance Acts—provides as follows :—

Increase in Rates in the £.

12.—(1) In order, as far as may be, to provide for the collection of income-tax (including super-tax) for the last four months of the current income-tax year at double the rates at which it is charged under the Finance Act, 1914, the following provisions shall have effect :—

- (a) The amount payable in respect of any assessment already made of income-tax chargeable otherwise than by way of deduction, or of super-tax, shall be treated as increased by one-third, and any authority to collect the tax, and remedy for non-payment of the tax, shall apply accordingly ; and
- (b) An assessment of any such income-tax or super-tax not already made shall be made for an amount one-third more than that for which it would have been made if this Act had not passed ; and
- (c) Such deductions shall be made in accordance with regulations prescribed by the Commissioners of Inland Revenue in the case of dividends, interest, or other annual sums (including rent) due or payable after the fifth day of December nineteen hundred and fourteen as will make the total amount deducted in respect of income-tax for the year equal to that which would have been deducted if income-tax for the year had been at the rate of one shilling and eightpence ; and
- (d) Subsection (1) of Section 14 of the Revenue Act, 1911, shall apply, in cases where both the half-yearly payments referred to therein have been paid before the passing of this Act, as if this Act were the Act imposing income-tax for the year, and as if one shilling and eightpence were the rate ultimately charged for the year ; and

(e) Where the amount of any exemption, relief, or abatement under the Income Tax Acts is to be determined by reference to the amount of income-tax on any sum, the amount of the tax shall be calculated at one shilling and eightpence, with a proportionate reduction where relief is granted under Section 6 of the Finance Act, 1914; and where income-tax is payable in respect of a part only of a year, the tax shall be deemed to be at the rate of one shilling and eightpence.

(2) For the purpose of the Provisional Collection of Taxes Act, 1913, or of continuing income-tax for any future income-tax year, the rate of income-tax for the current year shall be deemed to be two shillings and sixpence.

Section 12 increased the rates for income-tax and super-tax by one-third, making them as follows :—

				<i>Unearned</i>		<i>Earned</i>	
				£	s d	s d	
Total Income not exceeding ..	..	..	300	..	1 4	1 0	
" " exceeding £300, not exceeding 500	..	..	500	..	1 6 ² / ₃	1 0	
" " " 500 " "	..	..	1,000	..	1 8	1 0	
" " " 1,000 " "	..	..	1,500	..	1 8	1 2	
" " " 1,500 " "	..	..	2,000	..	1 8	1 4	
" " " 2,000 " "	..	..	2,500	..	1 8	1 6 ² / ₃	
" " " 2,500 " "	..	..	—	..	1 8	1 8	

Diminished Incomes.

13.—(1) Section 133 of the Income Tax Act, 1842, and Section 6 of the Revenue Act, 1865 (which provide for the reduction of assessments or the repayment of duty in certain cases where the profits of the year of assessment fall short of the sum on which the assessment has been made), shall, notwithstanding their repeal by Section 24 of the Finance Act, 1907, have effect as respects any assessment to income-tax for the current income-tax year where it is proved to the satisfaction of the Commissioners, by whom the assessment has been made, that the diminution of profits and gains on account of which relief is claimed under those sections is due to circumstances attributable directly or indirectly to the present war, whether those

circumstances are a specific cause of the diminution of income within the meaning of Section 134 of the Income Tax Act, 1842, or not; and diminution of profits and gains on account of which relief can be given under this section shall not be deemed to be a specific cause authorising the grant of relief under the said Section 134.

The foregoing provision, in its application to the case of any person who, in connection with the present war, is or has been serving as a member of any of the military or naval forces of the Crown, or in any work abroad of the British Red Cross Society, or the Saint John Ambulance Association, or any other body with similar objects, shall be construed as if that provision referred only to Section 133 of the Income Tax Act, 1842, and contained no reference to Section 6 of the Revenue Act, 1865.

(2) Where it is proved to the satisfaction of the Commissioners for the special purposes of the Acts relating to income-tax that the actual income from all sources of any individual charged to super-tax for the current income-tax year is or will be less than two-thirds of the income on which he is liable to be so charged, he shall be entitled to postpone the payment of so much of the super-tax payable by him as represents the difference between the tax payable on the income on which he is liable to be assessed and the tax which would have been payable by him if he had been assessed on his actual income; and any amount of which the payment is so postponed shall, subject to any provisions which may be made by Parliament, become payable on the first day of January nineteen hundred and sixteen.

(3) Section 59 of the Taxes Management Act, 1880 (which relates to the statement of a case on a point of law), shall apply to cases in which relief is claimed under this section.

Section 133 provides for adjustment to an average of the two preceding years and the

current year of assessment, *as shown at p. 32.* The diminution must be directly or indirectly connected with the war.

See pp. 55, 115 for relief to naval, military, and Red Cross persons.

Where a person is serving with the Forces Section 133 applies without Section 6 of the 1865 Act, i.e. the actual income of the year of assessment is assessable if less than the ordinary assessment.

In the case of a partnership, where one partner is in the army and one is not, the position would be as follows :—

Profits year to 31st December	1911	..	£ 1,500
"	"	1912	.. 1,400
"	"	1913	.. 1,300
"	"	1914	.. 600

The 1914-15 assessment would normally be :—

		£
1911	..	1,200
1912	..	1,400
1913	..	1,300
		<hr/> 3,900
		<hr/> £1,300
		<hr/>

The partners A. and B. would each bear tax on £650, but, as the 1914 profits have been reduced, Section 133 and the 1865 Act apply, giving an assessment as follows :—

		£
1912	..	1,400
1913	..	1,300
1914	..	600
		<hr/> 3,300
		<hr/> £1,100
		<hr/>

Now, if B. were in the army the liabilities would be as under :—

A.	Half of £1,100	=	£550
B.	Half of 600	=	300
			<hr/>
Total assessment	..		£850
			<hr/>

Finance Act, 1915.

The first Finance Act of 1915, passed on 29th July 1915—although not of the importance of the second Act (p. 36)—contains some momentous introductions.

PART II.

Increase of Rates in the £.

10.—(1) Income-tax for the year beginning on the sixth day of April, nineteen hundred and fifteen, shall be charged at the rate of two shillings and sixpence, and super-tax shall be charged, levied, and paid for that year at double the rates mentioned in Section 3 of the Finance Act, 1914.

(2) All such enactments relating to income-tax, including super-tax, as were in force with respect to the duties of income-tax granted for the year beginning on the sixth day of April, nineteen hundred and fourteen, shall have full force and effect with respect to any duties of income-tax hereby granted :

Provided that—

(a) Sections 4 and 6 of the Finance Act, 1914, which confer relief with respect to earned income and small incomes respectively, shall have effect as though the rates mentioned in those sections were doubled ; and

(b) Subsection (1) of Section 12 of the Finance Act, 1914 (Session 2), shall not have effect with respect to any duties of income-tax hereby granted.

(3) The annual value of any property which has been adopted for the purpose either of income-tax under Schedules A and B in the Income Tax Act, 1853; or of inhabited house duty, for the year ending on the fifth day of April, nineteen hundred and fifteen, shall be taken as the annual value of such property for the same purpose for the next subsequent year ; provided that this subsection—

- (v) so far as respects the duty on inhabited houses in Scotland, shall be construed with the substitution of the twenty-fourth day of May for the fifth day of April; and
- (b) shall not apply to the metropolis as defined by the Valuation (Metropolis) Act, 1869.

The above rates, which are as follows, are increased for 1915-16 by one-fifth, giving the resultant rates at p. 38.

EARNED INCOME.

		1914-15
Not exceeding £1,000	1/6	1/-
Exceeding £1,000 but not exceeding £1,500 ..	1/9	1/2
" £1,500 " " £2,000 ..	2/-	1/4
" £2,000 " " £2,500 ..	2/4	1/6 ² / ₃
" £2,500	2/6	1/3

UNEARNED INCOME.

Not exceeding £300	2/-	1/4
Exceeding £300 but not exceeding £500 ..	2/4	1/6 ² / ₃
" £500	2/6	1/8

(3) The subsection is the annual provision for continuing the Schedules A and B and Inhabited House Duty assessments which are, in principle, made quinquennially, but in practice are made less frequently. The present assessments were made in 1910-11.

Assurance Companies.

11.—Where an assurance company carries on life assurance business in conjunction with assurance business of any other class, the life assurance business of the company shall, for the purposes of the Income Tax Acts, be treated as a separate business from any other class of business carried on by the company.

Under the previous law, as judicially interpreted, the *joint* profits of the different branches of assurance were assessable.

12.—In ascertaining for the purposes of Section 101 of the Income Tax Act, 1842, or of Section 23 of the Customs and Inland Revenue Act, 1890, whether an assurance company has sustained a loss in respect of its life assurance business, any income of the company derived from the investment of its life assurance fund shall be treated as part of the profits of the company acquired in that business.

Section 101 of the 1842 Act provides that an *average* loss on one business, assessable under Schedule D, may be deducted from the *average* profits of another business in the same ownership.

Section 23 of the 1890 Act allows repayment of tax, paid under any schedule, up to the amount of a loss, in the *year of assessment*, on any business.

The latter Act provides a means of allowing assurance companies to obtain allowance for management expenses by treating as a loss the result *before* crediting taxed income from investments. Section 12 thus renders this course inoperative, but Section 14 (*post*) expressly allows management expenses.

13.—The amount of annuities which an assurance company carrying on the business of granting annuities is entitled, for the purposes of Subsection (3) of Section 24 of the Customs and Inland Revenue Act, 1888, to treat as having been paid out of profits or gains brought into charge to income-tax shall not exceed the amount of the taxed income of its annuity fund.

The 1888 Act provides that when annual payments are wholly or partly made out of profits or gains *not* brought into charge to income-tax, tax *must* be deducted by the payer at the rate in force at the time of payment, and the tax handed over to the Revenue. When the payments are

treated as being paid out of profits charged, the payer is entitled to deduct and *retain* tax.

14.—(1) Where an assurance company carrying on life assurance business or any company whose business consists mainly in the making of investments, and the principal part of whose income is derived therefrom, claims and proves to the satisfaction of the Special Commissioners that for any income-tax year it has been charged to income-tax by deduction or otherwise, and has not been so charged in respect of its profits in accordance with the rules under the first case in Section 100 of the Income Tax Act, 1842, the company shall be entitled to repayment of so much of the tax paid by it as is equal to the amount of the tax on any sums disbursed as expenses of management (including commissions) for that year :

Provided that—

- (a) relief shall not be given under this section so as to make the income-tax paid by the company less than the tax which would have been paid if the profits of the company had been charged in accordance with the said rules; and
 - (b) the amount of any fines, fees, or profits arising from reversions in the case of an assurance company, and in the case of any other company the amount of any income or profits derived from sources not charged to income-tax, shall be deducted from the amount treated as expenses of management for the year; and
 - (c) in calculating profits arising from reversions, the company may set off against those profits any loss arising from reversions for any previous year during which this section was in operation.
- (2) Notice of any claim to the Special Commissioners under this section together with the particulars thereof shall be given in writing to the surveyor of taxes for the district within twelve months after the expiration of the

income-tax year in respect of which the claim is made, and where the surveyor objects to such claim the Special Commissioners shall hear and determine the same in like manner as in the case of an appeal to them against an assessment under Schedule D, and Section 59 of the Taxes Management Act, 1880 (which relates to the statement of a case on a point of law), and any rules made for the purposes of that section shall apply in the case of any such appeal.

(3) A company shall not be entitled to any relief under this section in respect of any expenses as to which relief may be claimed or allowed under Section 35 of the Finance Act, 1894, or Section 69 of the Finance (1909-10) Act, 1910, as extended by Section 8 of the Finance Act, 1914, by which enactments relief is conferred in respect of the cost of maintenance, repairs, insurance, or management of land or houses.

(1) The above section thus allows management expenses of all companies whose business consists *mainly* in the making of investments. Under the previous law the Revenue had the option of assessing a company on (a) its trading profits, or (b) its income from investments, and when (b) exceeded (a) it was adopted as the basis, thus giving an assessment exceeding the *net profit*, and thereby disallowing part of the management expenses incurred in *inter alia* the acquirement of that income from invested funds. The following example illustrates the matter:—

		£			£
General Expenses	50,000		Taxed Income from Investments		60,000
Balance being net profit ..	30,000		Income from other sources (premiums, &c.)		20,000
		<u>£80,000</u>			<u>£80,000</u>

The Crown thus had the option of assessing the net profit of £30,000 or accepting assessment by

deduction on the income from investments, viz. £60,000, and the latter was followed as giving the larger tax, thus taxing £60,000, while the real profit was only £30,000. Under the above section, however, repayment of tax deducted from the income from investments may be obtained in respect of management expenses, so as to give a net assessment, which would be the same as that if ordinary profits were adopted. The repayment would be as follows:—

Tax paid on	..	..	..	£
" due on	..	..	..	60,000
				<u>30,000</u>
Repayment on..	..			<u>£30,000</u>

The repayment is, however, restricted so as to leave in charge the average *net* profits of the three preceding years as assessable under Case 1.

(3) This refers to repairs of property, which are allowed under Schedule A.

Foreign Assurance Companies.

15.—(1) Where an assurance company not having its head office in the United Kingdom carries on life assurance business through any branch or agency in the United Kingdom, any income of the company from investments of its life assurance fund (excluding the annuity fund, if any), wherever received, shall, to the extent provided in this section, be deemed to be profits comprised in Schedule D of the Income Tax Act, 1853, and shall be charged under the rules of the third case in Section 100 of the Income Tax Act, 1842.

(2) Such portion only of the income from the investments of the life assurance fund shall be charged under this section as bears the same proportion to the total income from those investments as the amount of premiums received in that year from policy holders resident in the United Kingdom and from policy holders resident abroad

whose proposals were made to the company at or through its office or agency in the United Kingdom bears to the total amount of the premiums received by the company :

Provided that in the case of an assurance company having its head office in any British possession the Commissioners of Inland Revenue may, by regulation, substitute some basis other than that prescribed by this section for the purpose of ascertaining the portion of the income from investments to be charged under this section as being income derived from business carried on in the United Kingdom.

(3) The relief conferred by this Act in respect of expenses of management shall, in the case of a company charged to income-tax under this section, be calculated by reference to a like proportion of the total expenses of management of the company for the year estimated in accordance with the provisions of this Act.

(4) Every assessment under this section shall be made by the Special Commissioners as though the company under the provisions of the Income Tax Acts had required the proceedings relating to the assessment to be had and taken before those Commissioners.

(5) Where a company has already been charged to income-tax, by deduction or otherwise, in respect of its life assurance business, to an amount equal to or exceeding the charge under this section, no further charge shall be made under this section, and where a company has already been so charged, but to a less amount, the charge under this section shall be proportionately reduced.

(1) Case 3 charges profits of the *preceding* year.

If, therefore, the total premium income of the company for the current year were £300,000, and the United Kingdom accounted for £100,000, one-third only of the income from investment of the life assurance fund would be chargeable

(3) The allowance of management expenses is based on the same principle as in (1).

16.—Section 5 of the Finance Act, 1914 (which provides for the taxation of income in respect of foreign property), shall not apply to income arising from the sources specified in that section of an assurance company so far as that income arises from the investments of the foreign life assurance fund of the company, but a corresponding reduction shall be made in the relief granted under this Act in respect of expenses of management.

Section 5 of the 1914 Act provided that the full *income*—irrespective of non-remittance to this country—from foreign and colonial securities, stocks, shares, or rents, should be charged, but the section does not apply to persons or companies not domiciled in the United Kingdom or not ordinarily resident here. Section 16, therefore, leaves the income in question only taxable if it is remitted here, as is provided for by Cases 4 and 5 of Schedule D.

The following definitions relating to assurance companies are contained in Section 28.

28.—(1) In this Act, unless the context otherwise requires—

The expression “assurance company” means any persons or bodies of persons, whether corporate or unincorporate, to which the Assurance Companies Act, 1909, applies;

The expression “life assurance business” includes the business of granting annuities;

The expression “annuity fund” means, where an annuity fund is not kept separately from the life assurance fund of an assurance company, such part of the life assurance fund as represents the liability of the company under its annuity contracts as stated in its periodical returns to the Board of Trade under the Assurance Companies Act, 1909;

The expression "foreign life assurance fund" means any fund representing the amount of the liability of an assurance company in respect of its life assurance business with policy-holders and annuitants residing out of the United Kingdom whose proposals were made to, or whose annuity contracts were granted by, the company at or through a branch or agency outside the United Kingdom, and, where such a fund is not kept separately from the life assurance fund of the company, means such part of the life assurance fund as represents the liability of the company under such policies and annuity contracts; such liability being estimated in the same manner as it is estimated for the purposes of the periodical returns of the company to the Board of Trade under the Assurance Companies Act, 1909.

Life Insurance Premiums.

17.—(1) A person shall not be entitled under Section 54 of the Income Tax Act, 1853 (as amended by any subsequent enactment), to deduct from profits or gains—

(a) In respect of any premium or other payment payable on a policy for securing a capital sum on death (whether in conjunction with any other benefit or not), more than seven per cent. of the actual capital sum assured; and

(b) In respect of any premiums or payments to which that section applies payable for securing any other benefits, more than one hundred pounds in all;

and the relief by way of repayment of tax under that section, or by way of deduction for the purposes of super-tax under paragraph (b) of Subsection (2) of Section 66 of the Finance (1909-10) Act, 1910, shall be correspondingly limited.

(2) In calculating the deduction under this section in respect of any premium or other payment payable on a

policy for securing a capital sum on death no account shall be taken of any sum payable on the happening of any other contingency or of the value of any premiums agreed to be returned or of any benefit by way of bonus, or otherwise, which is to be or may be received either before or after death, either by the person paying the premium, or by any other person, and which is not the sum actually assured.

The object of the above section is to prevent allowance in respect of premiums paid on short term policies which are, in effect, almost pure investments.

Section 54 of the 1853 Act allows deduction of premiums paid on the life of a taxpayer or that of his wife, and this has been held in *Gould v. Curtis* (1913) to apply to endowment policies.

With e.g. the following policies of an individual the total allowance would be as shown :—

Sums Assured	Premiums	Allowance
£	£	£
1,000	40	40
2,000	160	140
500	100	35
	<u>£300</u>	<u>£215</u>

The deduction is restricted to one-sixth of the "total income from all sources," but see p. 55 for the effect of the second 1915 Act on reduced "total incomes."

Conclusiveness of Income Tax Assessments.

18.—Where an assessment to income-tax has become final and conclusive for the purposes of the income-tax for any year, the assessment shall also be final and conclusive in estimating total income from all sources for the purposes of super-tax for the following year, or of any exemption, relief, or abatement under the Income Tax

Acts, and no allowance or adjustment of liability on the ground of diminution of income or loss shall be taken into account in estimating the total income from all sources for such purposes unless that allowance or adjustment has been previously made in respect of income-tax on an application under the special provisions of the Income Tax Acts relating thereto.

This section overrules *Inland Revenue Commissioners v. Brooks* (1915) where it was held, in the House of Lords, that the income-tax assessments were not binding for super-tax, and that a taxpayer could prove what his income was, even though the income-tax assessment on that income had been fixed, and thus become conclusive for income-tax purposes. This covers applications under Section 23 of the 1890 Act (p. 22).

The War.

19.—Where it is proved to the satisfaction of the Special Commissioners—

- (a) that any individual, in connection with the present war, is or has been during any year serving as a member of any of the military or naval forces of the Crown, or in any work abroad of the British Red Cross Society, or the St. John Ambulance Association, or any other body with similar objects; and
 - (b) that the total income of that individual from all sources for that year is or was less than his total income from all sources for the previous year;
- the total income of that individual from all sources for the purposes of super-tax for that year shall be taken to be his total income from all sources for that year, estimated in the same manner as, under Section 66 of the Finance (1909-10) Act, 1910, his total income for the previous year is required to be estimated, and where the tax has been paid repayment shall be made accordingly.

This coincides, in principle, with the provision of Section 13 of the Finance Act, 1914 (Session 2) that the income-tax liability of a person so serving as above shall be the actual income of the year of assessment.

20.—Section 13 of the Finance Act, 1914 (Session 2), (which gives relief in respect of diminution of income due to war) shall apply to income-tax (including super-tax) for the current income-tax year, but with the substitution, as respects postponed super-tax, of the first day of January nineteen hundred and seventeen for the first day of January nineteen hundred and sixteen as the date on which the postponed super-tax is to become payable, and any payment of super-tax for the year beginning the sixth day of April nineteen hundred and fourteen which has been postponed under that section may be further postponed until the first day of January nineteen hundred and seventeen, if the individual from whom the payment is due proves, to the satisfaction of the Special Commissioners, that his actual income from all sources for the current income-tax year is or will be less than two-thirds of the income on which he was liable to be charged to super-tax for the year beginning on the sixth day of April nineteen hundred and fourteen.

Section 13 of the 1914 Act provided as follows :—

(a) That when the profits of any trade or profession have been reduced from causes “directly or indirectly” due to the war, the liability to income-tax may be reduced, under Section 133 of the 1842 Act and its complement Section 6 of the 1865 Act, to the average of the three years, *including* the year of assessment, thus bringing in the reduced profits of the year, while, as the ordinary method may be adopted in subsequent years, four-thirds of that bad year may be brought into average, thus giving the taxpayer a benefit

which has *no* disadvantages. The following example illustrates the matter :—

Profits—Year to 31st December 1912	..	..	£	6,000
" " " 1913	..	..	5,000	
" " " 1914	..	..	5,000	
" " " 1915	..	..	1,500	

The 1915-16 assessment would be as follows :—

1912	..	..	..	£	6,000
1913	..	..	..	5,000	
1914	..	..	..	5,000	
					<hr/>
					3)16,000
					<hr/>
					£5,333
					<hr/>

The adjusted average under Section 133 would be as follows :—

1913	..	..	..	£	5,000
1914	..	..	..	5,000	
1915	..	..	..	1,500	
					<hr/>
					3)11,500
					<hr/>
					£3,833
					<hr/>

Repayment would, therefore, be allowable as under :—

Assessment..	..	..	..	£	5,333
Adjusted average..	..	..	..	3,833	
					<hr/>
Repayment on	..	..	..	£1,500	
					<hr/>

Claims under Section 133 have *statutorily* to be made at the "end of the year," but in practice they are admitted within twelve months of such end.

If the profits of the year of assessment are *more* than the adjusted average, those profits form the latter average.

Where the person is actively serving in the capacity shown at p. 31, the actual income of the year is assessable under Section 133 alone.

The 1865 Act restricts Section 133 by making the repayment to be on the above average.

The 1914 Act also provided that when the total income of the year of assessment was less than two-thirds of the super-tax liability for that year, i.e. the income of the *preceding* year, super-tax on the difference between those two incomes could be postponed to 1st January 1916. Section 20 above gives a further postponement to 1st January 1917 if the 1915-16 income is less than the 1914-15 liability.

Savings Banks.

21.—(1) The exemption from income-tax chargeable under Schedules C and D, conferred by Section 36 of the Finance Act, 1894, on penny savings banks and other banks for savings, shall extend to all income of the savings bank which is applied in the payment or credit of interest to any depositor, and that section shall have effect accordingly :

Provided that, where the interest paid or credited to any depositor in the year for which exemption is claimed exceeds the sum of five pounds, the bank and any branch thereof shall make a return to the surveyor of taxes for the district in which the bank or branch is situate of the name and place of residence of every depositor to whom any such sum has been paid or credited and of the amount thereof, and unless such returns are duly made the bank shall not be entitled to any relief under this section. Any such return shall be made on or before the first day of May in the year following that in respect of which exemption is claimed.

(2) The provisions of this Act conferring relief from income-tax in respect of expenses of management shall apply to savings banks and other banks for savings as

they apply to companies whose businesses consist mainly of investments.

See p. 49.

Bank Interest.

22.—Where interest payable in the United Kingdom on an advance from a bank carrying on a *bona fide* banking business in the United Kingdom is paid to the bank, without deduction of income-tax, out of profits and gains brought into charge to income-tax, the person by whom the interest is paid shall be entitled, on proof of the facts to the satisfaction of the Special Commissioners, to repayment of an amount equal to income-tax on the amount of the interest.

This legalises the previous practice of allowing repayment in respect of *inter alia* interest on overdrafts.

See p. 160.

Foreign Securities, &c.

23.—The amount which, in accordance with the provisions of Section 26 of the Customs and Inland Revenue Act, 1885 (which relates to the payment of income-tax on foreign and colonial dividends), a person entrusted with the payment of dividends is entitled to receive as remuneration shall, instead of being the allowance specified in that section, be an allowance calculated by reference to the amount of the dividends paid from which income-tax has been deducted, and to be fixed by the Treasury at a rate not being less than thirteen shillings and sixpence for every thousand pounds of that amount.

The allowance prescribed by the 1885 Act was such amount, not being less than 3d. in the £, as the Treasury determined. The payments are of foreign and colonial securities and other income when paid through an agent here.

Finance (No. 2) Act, 1915.

The relevant provisions of the Act which was passed on 23rd December 1915 are as follows :—

Increased Rates.

20.—(1) In order, as far as may be, to provide for the collection of income-tax for the last six months of the current income-tax year at rates exceeding by forty per cent. the rates at which it is charged under the Finance Act, 1915, the following provisions shall have effect :—

- (a) The amount payable in respect of any assessment already made of income-tax chargeable otherwise than by way of deduction shall be treated as increased by twenty per cent., and any authority to collect the tax, and remedy for non-payment of the tax, shall apply accordingly; and
- (b) An assessment of any such income-tax not already made shall be made for an amount exceeding by twenty per cent. that for which it would have been made if this Act had not passed; and
- (c) Such deductions shall be made in accordance with regulations prescribed by the Commissioners of Inland Revenue in the case of dividends, interest, or other annual sums (including rent) due or payable after the fifth day of October nineteen hundred and fifteen as will make the total amount deducted in respect of income-tax for the year equal to that which would have been deducted if income-tax for the year had been at the rate of three shillings; and
- (d) Subsection (1) of Section 14 of the Revenue Act, 1911, shall apply in cases where no further payment in respect of dividends, interest, or other annual sums is made after the fifth day of October nineteen hundred and fifteen and before the sixth day of April nineteen hundred and sixteen as if this Act

were the Act imposing income-tax for the year, and as if three shillings were the rate ultimately charged for the year;

- (e) Where the amount of any exemption, relief, or abatement under the Income Tax Acts is to be determined by reference to the amount of income-tax on any sum, the amount of the tax shall be calculated at three shillings, with a proportionate reduction where relief is granted under Section 6 of the Finance Act, 1914, as amended by Section 10 of the Finance Act, 1915; and where income-tax is payable in respect of a part only of a year, the tax shall be deemed to be at the rate of three shillings.

(2) If any individual who has been assessed or charged to income-tax claims and proves in manner provided by the Income Tax Acts that his actual income from all sources is less by more than ten per cent. than the income on which he has been so assessed or charged, he shall be entitled to repayment of any additional tax paid by him owing to the increase in the rate of tax effected by this section in accordance with the table set out in the Third Schedule to this Act.

(3) For the purpose of the Provisional Collection of Taxes Act, 1913, or of continuing income-tax for any future income-tax year, the rate of income-tax for the current year shall be deemed to be three shillings and sixpence.

In the first place the rate in the £ was 3s. for the year 1915-16, but an *individual* could claim a reduction in accordance with the scale in the Third Schedule, p. 39. But it should be noted that this only applied to the increases occasioned by the increased rates in the £, and did not extend to e.g. the case of lowering of the exemption limit or alteration of abatements.

Amended Rates in the £.

The average rates for 1915-16 under the present Act are as follows, being 20 per cent.

advance on the rates prescribed by the first Finance Act of 1915 (p. 22) :—

INCOME TAX.

Earned.

			s	d
Not exceeding £130 .. ..	..	..	..	nil
Exceeding £130 not exceeding £1,000 ..	1	93	3	
" 1,000	2	18	6	
" 1,500	2	4	9	
" 2,000	2	9	3	
" 2,500	3	0		

Unearned.

			s	d
Not exceeding £130 .. ..	..	..	..	nil
Exceeding £130 not exceeding £300 ..	2	4	4	
" 300	2	9	3	
" 500	3	0		

The following figures are of interest for reference :—

INCOMES WHOLLY EARNED.

Income			Old Tax for 1915-16			New Tax for 1915-16			Proposed Tax for 1916-17		
£			£	s	d	£	s	d	£	s	d
131	..	..	—			0	19	9	1	3	1
140	..	..	—			1	16	0	2	2	0
150	..	..	—			2	14	0	3	3	0
160	..	..	—			3	12	0	4	4	0
180	..	..	1	10	0	5	8	0	6	6	0
200	..	..	3	0	0	7	4	0	8	8	0
250	..	..	6	15	0	11	14	0	13	13	0
300	..	..	10	10	0	16	4	0	18	18	0
301	..	..	10	11	6	16	5	9	19	0	1
350	..	..	14	5	0	20	14	0	24	3	0
400	..	..	18	0	0	25	4	0	29	8	0
401	..	..	18	16	6	27	1	9	31	12	1
450	..	..	22	10	0	31	10	0	36	15	0
500	..	..	26	5	0	36	0	0	42	0	0
501	..	..	28	11	6	36	1	9	42	2	1
550	..	..	32	5	0	40	10	0	47	5	0
600	..	..	36	0	0	45	0	0	52	10	0
601	..	..	39	16	6	47	15	9	55	15	1
650	..	..	43	10	0	52	4	0	60	18	0
700	..	..	47	5	0	56	14	0	66	3	0
701	..	..	52	11	6	63	1	9	73	12	1
800	..	..	60	0	0	72	0	0	84	0	0
900	..	..	67	10	0	81	0	0	94	10	0
1,000	..	..	75	0	0	90	0	0	105	0	0
1,001	..	..	87	11	9	105	2	1	122	12	5
1,500	..	..	131	5	0	157	10	0	183	15	0
1,501	..	..	150	2	0	180	2	4	210	2	9
2,000	..	..	200	0	0	240	0	0	280	0	0
2,001	..	..	233	9	0	280	2	9	326	16	7
2,500	..	..	291	13	4	350	0	0	408	6	8
2,501	..	..	312	12	6	375	3	0	437	13	6
3,000	..	..	375	0	0	450	0	0	525	0	0

INCOMES WHOLLY UNEARNED.

Income	Old Tax for 1915-16	New Tax for 1915-16	Proposed Tax for 1916-17
£	£ s d	£ s d	£ s d
131	—	1 6 4	1 10 9
140	—	2 8 0	2 16 0
150	—	3 12 0	4 4 0
160	—	4 16 0	5 12 0
180	2 0 0	7 4 0	8 8 0
200	4 0 0	9 12 0	11 4 0
250	9 0 0	15 12 0	18 4 0
300	14 0 0	21 12 0	25 4 0
301	16 9 0	25 6 9	29 11 3
350	22 3 4	32 4 0	37 11 4
400	28 0 0	39 4 0	45 14 8
401	29 5 8	42 2 9	49 3 3
450	35 0 0	49 0 0	57 3 4
500	40 16 8	56 0 0	65 6 8
501	47 12 6	60 3 0	70 3 6
550	53 15 0	67 10 0	78 15 0
600	60 0 0	75 0 0	87 10 0
601	66 7 6	79 13 0	92 18 6
650	72 10 0	87 0 0	101 10 0
700	78 15 0	94 10 0	110 5 0
701	87 12 6	105 3 0	122 13 6
800	100 0 0	120 0 0	140 0 0
900	112 10 0	135 0 0	157 10 0
1,000	125 0 0	150 0 0	175 0 0
1,001	125 2 6	150 3 0	175 3 6
1,500	187 10 0	225 0 0	262 10 0
1,501	187 12 6	225 3 0	262 13 6
2,000	250 0 0	300 0 0	350 0 0
2,001	250 2 6	300 3 0	350 3 6
2,500	312 10 0	375 0 0	437 10 0
2,501	312 12 6	375 3 0	437 13 6
3,000	375 0 0	450 0 0	525 0 0

The following Schedule shows the repayable amount of the additional tax resulting from the increased *rates* in the £, as referred to at p. 38.

THIRD SCHEDULE.

TABLE.

Percentage by which the Actual Income is less than the Income on which Income Tax has been assessed or charged						Amount of Repayment of Additional Tax
11 per cent. and under	12 per cent.	..	..	..	..	10 per cent.
12	13 .. ..	..	..	..	..	20 ..
13	14 .. ..	..	..	..	..	30 ..
14	15 .. ..	..	..	..	..	40 ..
15	16 .. ..	..	..	..	..	50 ..
16	17 .. ..	..	..	..	..	60 ..
17	18 .. ..	..	..	..	..	70 ..
18	19 .. ..	..	..	..	..	80 ..
19	20 .. ..	..	..	..	..	90 ..
20	or more	..	..	..	..	100 ..

Deduction of Tax.

The question of deduction of tax from dividends, &c., has again assumed a particular importance in connection with the increased rates of the new Act. It was provided that such deductions should be made from payments due or payable after 5th October 1915 as should make the rate for 1915-16 3s. in the £. The principle introduced in the second Finance Act of 1914 was followed in the 1915 (2) Act. Where the interim dividends had borne deduction at 2s. 6d. the next deduction was to recover the deficiency. Assuming an interim of 5 per cent. was paid on 30th June 1915, tax would have been deducted at 2s. 1d. in the £, i.e. $\frac{1}{2}$ at 1s. 8d., plus $\frac{1}{2}$ at 2s. 6d., but, on making the final payment in December 1915, the tax for the year to 31st December 1915 must be taken as a whole. The rate in the £ for the trading year ending 31st December 1915 was, therefore, as follows :—

$$\frac{1}{2} \text{ at 1s. 8d. plus } \frac{1}{2} \text{ at 3s.} = 2s. 8d$$

Now this rate of 2s. 8d. has to be applied for the year as a whole, and, assuming the interim and final dividends to be *equal in amount*, the deduction at 31st December 1915 should be as follows :—

$$2s. 8d. \text{ plus deficiency on interim (2s. 8d. - 2s. 1d.) 7d.} = 3s. 3d.$$

This deduction at 3s. 3d.—added to the interim deduction at 2s. 1d.—makes a deduction of 2s. 8d. for the year. Had the December deduction been the interim, deduction would have been made at 3s. plus 3d. = 3s. 3d., the item of 3d. being the difference between 3s. and 2s. 6d. for the quarter ending 30th June 1915, i.e. 3d. for the half-year.

A modification of the above methods is necessary when the interim and final differ in amount. If an interim at 30th June 1915 was 5 per cent., and a final at 31st December 1915 was 10 per cent., the deficiency of deduction to be added to the latter is directly affected by the amount of the final. The deficiency on the interim would be 2s. 8d. 2s. 1d. = 7d. on 5 per cent., which, when recovered by being added to the final deduction from 10 per cent., would obviously be 5-10ths of 7d. = $3\frac{1}{2}$ d., giving a total deduction at 31st December of 2s. 8d. plus $3\frac{1}{2}$ d. = 2s. 11 $\frac{1}{2}$ d. An addition of the full deficiency of 7d. would, of course, when deducted on 10 per cent., recover double the actual deficiency. The result of the deductions are shown below :—

Interim dividend	..	..	2s. 1d. on £5	=	£	s	d
Final	"	..	2s. 11 $\frac{1}{2}$ d. on £10	=	1	9	7
			2s. 8d. on £15	=	2	0	0
					<u> </u>	<u> </u>	<u> </u>

The Act provides that in cases where no further payment of dividends, interest, or other annual payment is made after 5th October 1915 and before 6th April 1916, Section 14 (1) of the Revenue Act, 1911, shall apply. The latter enacts that deficiency of deduction in respect of past payments may be assessed direct on the recipient under Case 6 of Schedule D.

Some discussion has recently centred in the question of whether the new Act would introduce an *average* rate of 3s. for the year, as advanced by the writer, or a rate of 2s. 6d. to 5th October, and 3s. 6d. from that date as contended by a correspondent. The writer pointed out that the Regulations, statutorily provided for under the

1914 Act, specified an average rate, and that the 1915 Regulations would no doubt be in the same terms. They have now been issued, and provide that, in the case of dividends, &c., paid out of profits brought into charge, "any deduction so made after 5th October 1915 may be made as if income-tax for the year had been at the rate of 3s., and, in addition, may include any sum by which any previous deduction of income-tax on account of payments accruing due since 5th April 1915, is less than the sum which would have been deductible if income-tax for the year had been at the rate of 3s." With payments not made out of profits brought into charge, tax shall be deducted from any payments made after 5th October 1915 as if income-tax for the year had been at the rate of 3s." The Regulations, which have statutory effect, are in reference to the provisions of Section 20 (1) (c) of the Act that such deductions shall be made in accordance with Regulations "as will make the total amount deducted . . . for the year equal to that which would have been deducted if income-tax for the year had been at the rate of 3s.," thus show clearly that an average rate of 3s. is introduced.

An explanatory official memorandum on deduction of tax was issued, but this was superseded by another memorandum printed below. It does not alter the terms of the former, but it contains an additional paragraph stating specifically that the rate is now an average one of 3s. for the year. This paragraph provides that the total deduction on amounts accruing in the year to 5th April 1916 "shall be at the rate of 3s. in the £." Deficiency of deduction on past payments is to be

recovered from a payment or payments "accruing before 6th April 1916," thus there is no provision for recovery when no payment accrues between 5th October 1915 and 6th April 1916, but Section 20 (1) (d) provides, as mentioned above, that when there is no payment between those dates the 1911 Act shall authorise assessment direct on the recipient of dividends, &c., which have accrued between 5th April 1915 and 5th October 1915.

The Board's memorandum is as follows :—

The cases in which deductions have to be made in pursuance of the provisions of the Finance (No. 2) Act, 1915, and the regulations prescribed by the Commissioners of Inland Revenue in accordance therewith, fall into two main classes.

Class I.—Payments which are not made out of profits or gains brought into charge to income-tax.

This class comprises :—

(a) Dividends and interest from the public funds payable between October 6 1915 and April 5 1916, both dates inclusive.

(b) Dividends and interest of foreign or Colonial Government securities; or of foreign or Colonial companies, entrusted to an agent in this country for payment here between the above-mentioned dates, also the like dividends or interest which, although not entrusted to an agent in this country for payment, are realised in the United Kingdom between those dates through bankers, coupon dealers, or other persons.

(c) Interest and annuities paid between those dates by municipal corporations or other local authorities to creditors on rates, and not paid, or not wholly paid, out of profits and gains brought into charge to income-tax.

(d) Other interest and annuities paid between those dates, and not paid, or not wholly paid, out of profits and gains brought into charge to income-tax.

In cases falling within Class I :—

(i) Where any annual payment is made in one sum, tax will be deductible at the rate of 3s. in the £.

(ii) Where the dividend, interest, or annuity is paid in two half-yearly sums of equal amount, and one such sum has been paid prior to October 6 1915, under deduction at the rate of 2s. 6d. in the £, tax will be deductible from the subsequent half-yearly payment at the rate of 3s. 6d. in the £.

(iii) Where the dividend, interest, or annuity is paid in four quarterly sums of equal amount, and two such sums have been paid prior to October 6 1915, under deduction at the rate of 2s. 6d. in the £, tax will be deductible from each of the two subsequent quarterly payments at the rate of 3s. 6d. in the £.

(iv) Where the dividend, interest, or annuity is paid at other intervals than half-yearly or quarterly, or by payments unequal in amount, and one or more payments have been made after April 5 1915 and before October 6 1915, tax will be deductible from any further payment or payments at the rate of 3s. in the £, and, in addition, such a sum will be deductible as is required to make up the difference between the total amount of the tax actually deducted from the previous payment or payments and the total amount that would have been deductible from such previous payment or payments if the rate of tax had been 3s. in the £ throughout the year commencing on April 6 1915. If at the time of the first payment subsequent to October 5 1915 the total amount of the dividend, interest, or annuity payable in the year ending April 5 1916 can be ascertained, the additional deduction in respect of the previous payment or payments should be apportioned equally between all the subsequent payments to be made

during that year ; otherwise, the whole additional deduction should be made from the next payment subsequent to October 5 1915.

*Class II.—Payments made after October 5 1915 out of profits or gains brought into charge to income-tax.

This class comprises :—

(a) Ground rents, &c., secured on property charged with income-tax.

(b) Interest or annuities wholly payable out of property, profits, or gains charged with income-tax.

(c) Dividends paid out of the profits or gains of public companies in the United Kingdom.

Tax is deductible from payments falling within this class at the rate or rates in force during the period through which the same were accruing due.

The adjustment of deductions from such payments is primarily a matter to be settled between the payer and the recipient and does not immediately concern the revenue.

Under the provisions of the Finance (No. 2) Act, 1915, and the regulations prescribed in accordance therewith, the general principle upon which the payer is entitled to deduct tax from annual sums of this class due or payable after October 5 1915, is that the total amount deducted on account of payments accruing in the year commencing April 6 1915 shall be at the rate of 3s. in the £.

The following observations may be of assistance to those concerned in making or adjusting deductions from payments of this class :—

(i) Tax may be deducted at the rate of 3s. in the £ in respect of so much of any payment made after October 5

* NOTE.—In the case of lands and heritages in Scotland it is specially provided by Section 34 of the Finance (No. 2) Act, 1915, that deductions in respect of income-tax under Schedule A made from any rent, interest or payment due for the period ending on May 15th shall be made at the rate of the tax in force at the commencement of that period, and the above observations in regard to payments falling within Class II are therefore not applicable.

1915 as has accrued between April 6 1915 and April 5 1916 inclusive.

(ii) Where before October 6 1915 tax has been deducted from a payment or payments accruing wholly or in part after April 5 1915, a further deduction, in addition to that mentioned in the preceding paragraph, may be made from the subsequent payment or payments accruing before April 6 1916, of such a sum as is required to make up the difference between the total amount of the tax actually deducted from so much of the previous payment or payments as accrued after April 5 1915, and the total amount of the tax that would have been deducted if the rate of tax had been 3s. in the £ throughout the year commencing April 6 1915. This further deduction should be made from the next payment made after October 5 1915, except in the case of two equal quarterly payments, when it should be divided.

The Regulations under Subsection 1 (c) are as follows :—

Regulations prescribed by the Commissioners of Inland Revenue under Section 20 (1) (c) of the Finance (No. 2) Act, 1915 :—

1. In cases where deduction of income-tax is required to be made otherwise than from payments made out of profits or gains brought into charge to such tax, duty shall be deducted from any payments made after October 5 1915 as if income-tax for the year had been at the rate of 3s., and, in addition, the following provisions shall apply :—

(1) In the case of payments equal in amount where one half-yearly payment or two or more quarterly or other periodical payments shall have been made before October 6 1915, any additional sums for duty payable thereon by reason of the passing of the Act shall be deducted from the half-yearly or quarterly or other periodical payment or payments thereafter to be made

before April 6 1916, provided that where more than one such payment is to be made, the deductions from every such payment shall be equal in amount.

(2) In cases where periodical payments are unequal in amount, and any such payments shall have been made before October 6 1915, any additional sums for duty payable thereon by reason of the passing of the Act shall be deducted from any other periodical payments thereafter to be made before April 6 1916, provided that where more than one such payment is to be made the deductions from every such payment shall, where the total amount of the whole of such payments can be ascertained at the time when the first of those payments is made, be apportioned equally between the whole of those payments, but where the total amount of the whole of such payments cannot be ascertained at the time when the first of those payments is made, deduction shall be made from the first payment.

II. Subject to the provisions of Section 34 of the Finance (No. 2) Act, 1915 (which relate to deductions in respect of income-tax under Schedule A on lands and heritages in Scotland), where payments are made out of profits or gains brought into charge to income-tax and under the Income Tax Acts that tax is deductible from any payment at the rate or rates in force during the period through which the same was accruing due, any deduction so made after October 5 1915 may be made as if income-tax for the year had been at the rate of 3s., and, in addition, may include any sum by which any previous deduction of income-tax on account of payments accruing due since April 5 1915 is less than the sum which would have been deductible if income-tax for the year had been at the rate of 3s. Provided that if any such payments shall have been made prior to October 6 1915, any additional sums for duty deductible in consequence of the passing of the Act shall be deducted from the next payment, or if there be two or more payments of equal amount to be made in respect of

income accruing before April 6 1916, then such additional sum shall be so deducted as to make the deductions in respect of each of those payments equal in amount.

21.—(1) The exemption granted under Section 163 of the Income Tax Act, 1842, as extended by Section 34 of the Finance Act, 1894, to persons whose respective incomes do not exceed one hundred and sixty pounds a year shall be restricted so as to apply only to persons whose respective incomes do not exceed one hundred and thirty pounds a year.

(2) The relief from income-tax allowed under Section 34 of the Finance Act, 1894, to persons whose respective incomes do not exceed five hundred pounds and under Section 8 of the Finance Act, 1898, to individuals whose incomes do not exceed seven hundred pounds shall be reduced so as to be—

(a) in the case of persons whose incomes do not exceed four hundred pounds, the tax upon one hundred and twenty pounds; and

(b) in the case of persons whose incomes exceed four hundred pounds and do not exceed five hundred pounds, the tax upon one hundred pounds; and

(c) in the case of individuals whose incomes exceed five hundred pounds and do not exceed six hundred pounds, the tax upon one hundred pounds.

(3) Where relief for the current income-tax year under either of the said sections has, before the commencement of this Act, been given by reduction of the assessment, the assessment shall, without further notice or authority, be treated as varied in such a manner as to give effect to the amendments made by this section.

(4) One hundred and thirty pounds shall be substituted for one hundred and sixty pounds in Section 36 of the Finance Act, 1894 (which relates to depositors in savings banks) and in Section 68 of the Finance (1909-10) Act, 1910

(which relates to relief from income-tax with respect to children); and any reference in any enactment to Section 34 of the Finance Act, 1894, or to Section 8 of the Finance Act, 1898, shall be deemed to be a reference to that section as amended by this Act.

(5) Section 12 of the Finance Act, 1898 (which grants an exemption from land tax in the case of certain persons who have been allowed a total exemption from income-tax by reason of their income not exceeding one hundred and sixty pounds), shall have effect as though the words, "relief from income-tax," were substituted for the words, "a total exemption from income-tax."

Exemption Limit.

The exemption limit and abatements were reduced, but this only operated, *for collection*, in the July instalment, except in the case of unearned income from e.g. bank interest or property, when the full adjustment was made, and the *full* 1915-16 liability accounted for in the January collection.

The new scale of abatements is as follows:—

Not exceeding £130 .. ..	£..	..	..	Exempt
Exceeding £130 not exceeding £400	£400	..	..	£120
" £400 " " " £600	£600	..	..	£100
" £600 " " " £700	£700	..	..	£70
" £700 " .. ..	..	..	..	Nil

(4) Section 36 of the Finance Act, 1894, provides that any penny savings bank or other bank for savings, whether certified under the Savings Bank Act, 1863, or not, shall be entitled to exemption under Schedules C and D *in respect of the income of the funds of the bank*, so far as it is applied in payment or credit of interest to any depositor not exceeding £5 in the year for which exemption is claimed. The section further enacted that where interest is paid, or dividends or interest

credited without deduction to a depositor whose income exceeded £160, the interest, &c., was to be charged under Case 3 of Schedule D on the recipient. The new Act now substitutes £130 for £160. See also p. 34.

Section 34 of the Finance Act, 1894, and Section 8 of the Finance Act, 1898, prescribe the scale of exemption and abatements.

(5) Under Section 12 of the Finance Act, 1898, the owner in possession of rents of land or other property assessed to land tax could claim discharge of such assessment if he had obtained total exemption from income-tax by reason of his income not exceeding £160, while if the *abatement* of £160, which applied to incomes exceeding £160 but not exceeding £400, had been obtained, one-half only of the land tax was payable. The section enacts that the total discharge shall be allowable if the claimant has been allowed "*a total exemption from income-tax* by reason of his income not exceeding £160." The new Act thus deletes the words in italics and allows the discharge if the claimant has been allowed "relief from income-tax by reason of his income not exceeding £160." The allowance for land tax is thus *not* reduced by the exemption limit being lowered.

Schedule B.

22.—(1) Sections 26 and 27 of the Finance Act, 1896, shall, as respects income-tax under Schedule B, have effect as if references to one-third of the annual value were references to the annual value.

(2) The annual value in Ireland for the purpose of income-tax under Schedule B shall be taken to be—

- (a) the judicial rent fixed under the Land Law (Ireland) Acts or any of them; or

(b) the annual interest payable to the Irish Land Commission in lieu of rent under the Land Purchase (Ireland) Acts or any of them; or

(c) the purchase annuity payable under the Land Purchase (Ireland) Acts or any of them;

in any case in which it is shown that the judicial rent, the annual interest in lieu of rent, or the purchase annuity, as the case may be, is less than the Poor Law valuation.

(3) The election of a person occupying lands for the purposes of husbandry to be assessed under Schedule D may, in the current income-tax year, be signified as provided by Section 18 of the Customs and Inland Revenue Act, 1887, at any time before the seventh day of February nineteen hundred and sixteen.

(4) Any person occupying woodlands, who proves to the satisfaction of the General Commissioners that those woodlands are managed by him on a commercial basis and with a view to the realisation of profits, may elect to be charged to income-tax in respect of those woodlands under Schedule D instead of under Schedule B in the same manner as a person occupying lands for the purpose of husbandry only, and Section 18 of the Customs and Inland Revenue Act, 1887, shall apply accordingly, subject as follows:—

(a) Any such election shall extend to all woodlands so managed on the same estate; and

(b) The election shall have effect, not only as respects the year of assessment mentioned in that section, but also as respects all future years of assessment so long as the woodlands are occupied by the person making the election.

It must be noted, with regard to woodlands, that a claim to be charged under Schedule D is conclusive for all subsequent years, so long as the woodlands are occupied by the person so selecting assessment under Schedule D, whereas

farmers may choose Schedule D one year, Schedule B another year, and actual profits under the 1896 Act another year.

Farmers.

An amendment that husbandry should not be excluded from the Excess Profits Duty was lost, the Chancellor stating that, under the Budget, farmers were called upon to pay largely increased taxation, which taxation had been received with the greatest public spirit considering its severity. It is difficult to see the justice of this preference for farming, which business is, in all respects, treated with the fullest sympathy throughout the country, yet farmers are by no means the poverty-stricken, hard-hit class the public have been led to understand. Speaking generally, they are comparatively in enjoyment of comfortable prosperity. The new Act has involved increased taxation by Schedule B being trebled and the rates in the £ increased. As regards the latter, all taxpayers are similarly afflicted, while any contentions based on the former are farcical misconceptions. Farmers are admittedly specially taxed, but, as the options of assessment on *actual* profits of the year of assessment or on the average of the three preceding years still exist, the only effect of the Budget is that the *minimum* assessment is "profits," a basis which other taxpayers have always been forced to observe. What is good for taxpayers other than farmers is clearly sufficient for the latter, particularly when it is borne in mind that a farmer's reduced profit through a bad season means a reduced tax. In the past, farmers as a body have been grievously under-assessed, owing to Schedule B being based on

one-third of the annual value of the farm, but this injustice to other taxpayers cannot give legitimate ground for a Government statement that farmers are now severely dealt with in a comparative sense.

Repayment.

The 1896 Act provides that a person occupying lands *for the purposes of husbandry only*, who shows at the *end of the year* that his profits of that year (calendar, trading, or fiscal year) have been less than the Schedule B assessment, may claim to be charged only on such actual profits. In practice the limitation of claim to the "end of the year" is interpreted liberally, and claims are admitted if made within twelve months of the end of the *fiscal* year.

Super Tax.

23.—Section 3 of the Finance Act, 1914, as amended by Section 10 of the Finance Act, 1915 (which contains the rates of super-tax), shall have effect as if the following items were substituted for the last item in Subsection (1) thereof, namely—

- for every pound of the next one
thousand pounds of the excess ... two shillings and
tenpence.
- for every pound of the next one
thousand pounds of the excess ... three shillings and
twopence.
- for every pound of the remainder of
the excess ... three shillings and
sixpence.

The scale is now as follows :—

SUPER TAX.

Each £1 between	£2,501 and	£3,000 inclusive	..	s	d
"	"	3,001	"	0	10
"	"	4,001	"	1	2
"	"	5,001	"	1	6
"	"	6,001	"	1	10
"	"	7,001	"	2	2
"	"	8,001	"	2	6
"	"	9,001	"	2	10
"	"	10,001	"	3	2
"	"	over	10,000	3	6

Relief for Children.

24.—Section 7 of the Finance Act, 1914 (which extends the relief from income-tax given in respect of children), shall have effect as if twenty-five pounds were substituted for twenty pounds.

The allowance for children is now £25 for each child under 16 years of age at the commencement of the year of assessment, provided that the "total income from all sources for the year does not exceed £500." The 1916 Act extends to £700 (p. 127). See p. 157.

Relief to Naval and Military Persons.

25.—(1) Where any person who, during the current income-tax year, has served or is serving as a member of any of the naval or military forces of the Crown, or in service of a naval or military character in connection with the present war for which payment is made out of money provided by Parliament, or in any work abroad of the British Red Cross Society or the St. John Ambulance Association, or any other body with similar objects, proves that his total income from all sources does not exceed three hundred pounds, and that he is assessed or charged to income-tax, or has paid income-tax either by way of deduction or otherwise on his pay in connection with any such service, he shall be entitled to claim such relief from income-tax as will reduce the amount of income-tax on that pay to the amount which would have been payable at the rate in force immediately before the commencement of the present war.

(2) The relief given under this section shall be in addition to and not in derogation of any exemption or other relief or abatement under the Income Tax Acts and shall not be subject to the reduction of exemption and abatements for which provision is made under this Act; but relief in respect of earned income shall be given in respect of the pay by reference to the rate in force imme-

diately before the commencement of the present war; and, in calculating any earned income on which relief is to be given, any deductions from earned income made under Subsection (2) of Section 19 of the Finance Act, 1907, shall be made primarily from the pay.

(3) All the provisions of the Income Tax Acts which relate to claims for exemption or relief, or the proof to be given with respect to those claims, shall apply to claims for relief under this section and the proof to be given with respect to those claims.

See pp. 124, 154, for 1916-17 and 1917-18.

Military Persons.

The provision regarding persons serving in the naval or the military forces relates to the following branches:—

- (1) Navy or army.
- (2) Naval or military service—payment being made out of money provided by Parliament.
- (3) British Red Cross Society abroad.
- (4) St. John Ambulance Association or similar bodies abroad.

The relief, when the total income from all sources does not exceed £300, is by reduction of the charge *on the pay* to the rates in force immediately before the commencement of the war, i.e. an earned rate of 9d. instead of 1s. 9 $\frac{3}{4}$ d. for 1915-16. The *old* scale of exemption and abatements is to apply.

Life Insurance Premiums.

26.—(1) In any income-tax year to which this section applies, the whole amount of profits and gains by reference to which the limit of the relief granted in respect of the premiums on insurance policies under Section 54 of the Income Tax Act, 1853, and any Act amending the same, is calculated shall be taken to be and to have been the whole amount of the profits and gains within the meaning

of that section for the year ending the fifth day of April nineteen hundred and fourteen, where that amount is or was greater than the amount of the profits and gains by reference to which the limit would be calculated but for this section.

(2) This section applies to the income-tax year ended on the fifth day of April nineteen hundred and fifteen to the current income-tax year, and to any future income-tax year which includes any time during which the present war continues, and any amount which has been paid before the passing of this Act and would not have been paid if this section had been in force shall be repaid.

The substitution of a *pre-war* "total income" in regard to the limitation of insurance premiums to $\frac{1}{6}$ th of the total income refers to 1914-15, 1915-16, and any subsequent year in which the war continues wholly or partly. The pre-war basis is the "total income" for 1913-14, and repayment is allowed where applicable.

Weekly Wage Earners.

27.—(1) Weekly wage earners to whom this section applies shall be assessed and charged to income-tax in respect of their wages in each quarter of the year instead of in the whole year, and shall in all cases be assessed and charged in respect of the actual amount of their wages for that quarter, and as respects any such assessment and charge and the collection of the tax the Income Tax Acts shall have effect as if income-tax were charged for each quarter instead of for the year.

(2) This section applies only to weekly wage earners employed by way of manual labour in respect of the wages arising from that employment, and does not apply to persons employed as clerks, typists, draftsmen, or in any other similar capacity :

The expression "weekly wage earner" means a person who receive wages which are calculated by reference to the hour, day, week, or any period less than a month, at whatever intervals the wages may be paid, or who receives wages, however calculated, which are paid daily, weekly, or at any less intervals than a month :

If any question arises whether any person is a person to whom this section applies, that question shall be determined jointly by the Commissioners of Inland Revenue and the General Commissioners, and their determination shall be final and conclusive on the question.

(3) This section shall not have effect as respects the tax for the current income-tax year.

Assessment of Employees.

It was anticipated that objection would be taken to that part of the provision for assessment of employees which was to give the Revenue power to require an employer to deduct from wages any income-tax not duly paid by the employee. The method had, however, certain advantages from the labour point of view, as the recovery from the employee was limited to deduction by the employer in sums not exceeding one-quarter of the wages, whereas the alternative procedure of recovery by distraint, as with income-tax generally, would involve a payment in full with the addition of costs and of that friction and irritation inseparable from a public distraint. The collection of the tax would, however, be vastly facilitated if payment were required to be made by post or personal delivery at the Revenue's offices, and a reasonable discount allowed. Any defaulters could then be dealt with by either deduction from wages or distraint, but the discount would prove such a significant attraction that defaulters would be

scarce, and, moreover, the expense of collection would be very materially reduced by the absence of the necessity for a personal demand by the collector, and by the prompt payment.

Quarterly Assessment.

28.—(1) Section 21 of the Finance Act, 1907, which relates to returns to be made by the employer, shall extend so as to apply to all weekly wage earners to whom the provisions of this Act as to quarterly assessment apply, and so as to enable returns to be required at such times and intervals as may be fixed by regulations made under this section.

Where an employer is a body corporate, including a company, that body corporate shall be liable to a penalty for failure to deliver a return in pursuance of Section 21 of the Finance Act, 1907, as well as the secretary or other officer performing the duties as secretary of the body corporate.

(2) The assessment and charge of income-tax in each quarter under this Act shall not affect the grant of any exemption, relief, or abatement which is dependent wholly or partially on total annual income; and any such exemption, relief, or abatement shall be given, in cases where the income-tax is assessed and charged quarterly under this Act, as if the total wages on which the tax is charged and the total tax charged for the four quarters of the year were respectively the total income for the year from the wages and the total tax charged for the year in respect of the wages.

The Commissioners of Inland Revenue may, however, if they think fit in any case, in accordance with regulations made by them under this section, allow any such exemption, relief, or abatement by way of reduction of the quarterly assessment or repayment of the quarterly tax.

(3) The Commissioners of Inland Revenue may make regulations generally with respect to the assessment and collection of income-tax under this Act in the case of weekly wage earners, and with respect to the procedure to be adopted for the purpose, and may in particular by those regulations in the case of those weekly wage earners provide for the assessment of the tax by the Surveyor of Taxes and for the collection of the tax by a collector appointed by them, and for the application to the tax of the rules and provisions applicable to Schedule E in cases where those rules and provisions are not otherwise applicable.

(4) The amount of any income-tax assessed and charged quarterly under this Act shall, without prejudice to any other method of recovery under the Income Tax Acts, be also recoverable summarily as a civil debt.

(5) Nothing in this Part of this Act shall affect the right of appeal to the General Commissioners, and the General Commissioners may, if they think it necessary for the purpose of expediting the hearing of appeals, add to the number of General Commissioners by the co-optation or appointment of such persons for the purpose as they think fit.

The powers under this provision may be exercised notwithstanding any limitation under any Act of the number of the General Commissioners.

The provision for appointment of persons to hear appeals against the quarterly assessments on manual workers was dropped, but the local Commissioners are empowered to increase their number. It would not appear that there should be many appeals, as the basis of assessment is the *actual* income of the quarter, and the employers are compelled to certify the earnings. In the case, however, of contractors such as iron

rollers and colliers, who pay their own assistants, there is more scope for contention, as was the case under the income-tax previously.

Administration of the Income Tax.

Attempts have been made in the past, by proposed legislation, to restrict the scope of the powers of the local Commissioners and thus increase the proportion of direct Government control with its harshness of working and stock of red tape, but these efforts have been repeatedly defeated. In 1887 a Bill was withdrawn, after petitions from the London Chamber of Commerce and other important bodies, while before and after that year renewed attempts have been made to interfere with the rights of the Commissioners. The Commission of 1905 reported that the tax appeared on the whole to be levied with the minimum of friction, and that no very drastic alteration in the administration appeared to be necessary. Now, by the last Bill it was proposed that the assessment and collection of the tax on *employees* of all descriptions should be outside the jurisdiction of the local Commissioners. This proposal was rigidly opposed in the House, and was withdrawn except as to manual workers. In the present administrative system the Commissioners form a barrier between unreasonable demands of the Crown and rational rights of the public, and it is vitally important that this barrier shall never be broken down, otherwise a taxpayer will have no material protection from official tyranny ; but a significant blot on the present system is the absence of any means of securing a competency from local boards of Commissioners. While, in some districts, taxpayers are admirably protected

and equitably treated, in others the Commissioners are dominated by the Surveyor, so that they are, in those cases, of negligible value. The cause of this regrettable fact is the absolute lack, in many districts, of any knowledge on the part of the Clerk of income-tax procedure. Commissioners cannot be expected to be acquainted with income-tax law and practice any more than magistrates of magisterial law, but a system which allowed the Clerk—the professional adviser—to be completely ignorant of his business would not be tolerated in other than income-tax, so that, in practice, the system of local Commissioners is, generally, farcical.

Section 21 of the Finance Act, 1907, enacts that every employer shall, within the time limited by the notice, make a return of the names and residences of all employees and payments made to them, but the return is not to include any employee whose remuneration for the year does exceed the exemption limit for the time being (£130) *and* who has no other employment. When the employer is a company or other body corporate or unincorporate, the secretary, or other officer performing the duties of secretary, is deemed to be the employer. Any director or manager is to be considered a “person employed” for the return under the 1907 Act, but the quarterly assessment only charges “manual workers.”

Earned Rates.

29.—Subsection (4) of Section 19 of the Finance Act, 1907 (which limits the time within which a claim for relief on account of earned income is to be made), shall cease to have effect.

Previously a claim had to be made before 30th September in the year of assessment, but

the above withdrawal of that time limit leaves the matter to fall under Section 10 of the Income Tax Act, 1860, which restricts repayment to the three years preceding the year of assessment. Section 29 is *not* retrospective, but the earned rate for 1915-16 may be claimed at any time within three years of 5th April 1916.

Banks.

30.—Any bank carrying on a *bona fide* banking business in the United Kingdom shall be relieved, by repayment or otherwise, from income-tax under Schedule C in respect of the interest on any securities which the bank prove to the satisfaction of the Special Commissioners to represent subscriptions by the bank to any Government loan issued for the purposes of the present war either before or after the passing of this Act, and the bank shall include the amount of any such interest in the computation of the balance of its profits and gains for the purpose of assessment under the first case of Schedule D.

Assessment of Foreigners.

31.—(1) Section 41 of the Income Tax Act, 1842 (which relates to the charge of income-tax in special cases), shall, so far as it relates to the taxation of non-residents, be extended—

- (a) so as to make non-resident persons chargeable to income-tax in the name of any branch or manager as well as in the name of any factor, agent, or receiver; and
- (b) so as to make non-resident persons so chargeable, although the branch, factor, agent, receiver, or manager may not have the receipt of the profits or gains of the non-resident.

(2) A non-resident person shall be chargeable in respect of any profits or gains arising, whether directly or indirectly, through or from any branch, factorship,

agency, receivership, or management, and shall be so chargeable under Section 41 of the Income Tax Act, 1842, as amended by this section, in the name of the branch, factor, agent, receiver, or manager.

(3) Where a non-resident person not being a British subject or a British, Indian, Dominion, or Colonial firm or company, or branch thereof, carries on business with a resident person, and it appears to the Commissioners by whom the assessment is made that, owing to the close connection between the resident and the non-resident person, and to the substantial control exercised by the non-resident over the resident, the course of business between those persons can be so arranged, and is so arranged, that the business done by the resident in pursuance of his connection with the non-resident produces to the resident either no profits or less than the ordinary profits which might be expected to arise from that business, the non-resident person shall be chargeable to income-tax in the name of the resident person as if the resident person were an agent of the non-resident person.

(4) Where it appears to the Commissioners by whom the assessment is made or, on any objection or appeal, to the General or Special Commissioners, that the true amount of the profits or gains of any non-resident person chargeable in the name of a resident person with income-tax cannot in any case be readily ascertained, the Commissioners may, if they think fit, assess the non-resident person on a percentage of the turnover of the business done by the non-resident person through or with the resident person in whose name he is chargeable, and in such case Section 53 of the Income Tax Act, 1842, shall extend so as to require returns to be given of the business so done by the non-resident through or with the resident in the same manner as returns are to be given under that section of the profits or gains to be charged.

(5) The amount of percentage shall in each case be determined, having regard to the nature of the business,

by the Commissioners by whom the assessment on the percentage basis is made, subject, in the case of an assessment made by the additional Commissioners, to objection or appeal to the general or special Commissioners.

If either the resident or non-resident person is dissatisfied with the percentage determined either in the first instance or on objection or appeal by the General or Special Commissioners he may, within four months of that determination, require the Commissioners to refer the question of the percentage to a referee or board of referees to be appointed for the purpose by the Treasury, and the decision of the referee or board shall be final and conclusive.

(6) Nothing in Section 41 of the Income Tax Act, 1842 (as amended by any subsequent enactment or by this section), shall render a non-resident person chargeable in the name of a broker or general commission agent, or in the name of an agent, not being an authorised person carrying on the non-resident's regular agency or a person chargeable as if he were an agent in pursuance of this section, in respect of profits or gains arising from sales or transactions carried out through such a broker or agent.

(7) The fact that a non-resident person executes sales or carries out transactions with other non-residents in circumstances which would make him chargeable in pursuance of this section in the name of a resident person shall not of itself make him chargeable in respect of profits arising from those sales or transactions.

Foreign Agents.

In order to create assessability here the contracts and payments should not both have been made abroad. Foreign firms could employ agents in this country and provide them with price lists and all matters necessary to the receiving of orders. The latter, on being obtained by the agent, are sent

to the firm abroad for acceptance, and payment is made there. The agent has actually been trading in this country, but, in law, there was no assessability, whereas a British trader engaged in exactly the same trade escapes. This is remedied by the profits or a percentage on output or turnover being assessed. The Chancellor cited an example of a company B. being established here by a German firm A. Goods were manufactured here, and practically all concerned in B. were in the pay of A. The goods were invoiced to A. at cost of production, thus giving no assessable profit to B. Now A., who is not chargeable, being a foreign firm not legally trading in this country, sold the goods to a company C. here, at a price approximately that of retail sale. These goods were thus made, sold, and consumed here without payment of income-tax on the profits resulting therefrom. In another instance an American firm sold goods to a shop here which was apparently independent, but really controlled by the American firm. The latter sold the goods at retail price, thus avoiding profit to a business in this country.

No materially relevant objection can be taken to this amendment, which avoids loss of tax through the evolution of a pre-determined scheme for evasion.

A further example was mentioned in the House of Commons of an Australian wool-grower who sends his wool to London, where it is sold on the Wool Exchange to a French purchaser, and no income-tax was payable. Opposition was evolved on the basis that businesses would be driven from this country, but this consideration has in the past worn a theoretical aspect, and there is no

reason to anticipate a distinction in the case now in point. A foreigner's trading profit exceeds the income-tax, and he will not ignore the British market merely to avoid the tax.

Section 41 of the Income Tax Act, 1842, provides that any person not resident in the United Kingdom, whether a British subject or not, shall be chargeable in the name of "any factor, agent, "or receiver, having the receipt of any profits or "gains . . . belonging to such person . . . "and every such . . . agent, or receiver, "shall be answerable for the doing of all acts, "matters, and things" under the Acts. It was thus necessary that the agent should have receipt of the profits, which factor is now rendered unnecessary.

Non-Taxation of Securities owned by Foreigners.

47.—The Treasury may, if they think fit, during the continuance of the present war and a period of twelve months thereafter, issue any securities which they have power to issue for the purpose of raising any money or any loan with a condition that neither the capital nor the interest thereof shall be liable to any taxation, present or future, so long as it is shown in manner directed by the Treasury that the securities are in the beneficial ownership of persons who are neither domiciled nor ordinarily resident in the United Kingdom, and securities issued with such a condition shall be exempt accordingly.

Foreign investors are favourably treated under a new clause to the Bill, by which, during the continuance of the war and for a period of twelve months after, no interest or capital of securities shall be subject to tax when the beneficial owner is neither domiciled nor resident in the United Kingdom.

Place of Assessment.

32.—(1) Notwithstanding anything in Section 106 or 146 of the Income Tax Act, 1842, or in any other enactment relating to income-tax, a person may be charged to income-tax under Schedule D or E, whether or not he is engaged in any trade, manufacture, adventure, or concern, or any employment, vocation, or office, by commissioners acting for any parish or place in which that person ordinarily resides; and if any person has been so charged before the commencement of this Act, the charge shall not be deemed invalid by reason of that person not having been charged by the right commissioners:

Provided that nothing in this section shall affect the operation of Section 171 of the Income Tax Act, 1842, with respect to double assessments.

(2) Section 108 of the Income Tax Act, 1842 (which makes provision as to the place at which persons are to be assessed to income-tax in respect of profits or gains arising from foreign and colonial possessions or securities), is hereby repealed.

This section reverses *Rex v. Kensington Income Tax Commissioners; ex parte Aramayo*, which decided that income from foreign and colonial securities or possessions was only assessable at which of London, Bristol, Liverpool, and Glasgow was nearest to the port of importation of the income.

Payment by Instalments.

33.—(1) Income-tax for any year shall, in cases to which this section applies, instead of being payable on or before the first day of January in that year, or such other date as is specified in Section 82 of the Taxes Management Act, 1880, be payable in two equal instalments, the first on or before the first day of January in that year, or such other day as aforesaid, and the second on or before the following first day of July:

Provided that where the assessment is not signed and allowed till after the said following first day of July, this provision shall not have effect, and the duties shall be due and payable as provided by Section 82 of the Taxes Management Act, 1880.

(2) The cases to which this section applies are income-tax charged on any individual or firm under Schedule B in respect of lands occupied for husbandry only and income-tax charged on any individual or firm under Schedule D or the rules thereof in respect of the profits or gains of any trade, manufacture, adventure, or concern in the nature of trade or of any profession or vocation, and income-tax charged on any individual in respect of any office or employment, whether under Schedule D or E, except individuals whose income-tax is deducted at definite intervals of less than half a year, and weekly wage earners whose tax is, under this Act, assessed and charged quarterly :

Provided that, as respects the tax for the current income-tax year—

- (a) this section shall have effect as if two instalments, the one being the amount of tax payable under the Finance Act, 1915, and the other being the additional amount of tax payable under this Act (including any tax which is payable solely owing to alterations made by the provisions of this Act), were substituted for two equal instalments; and
- (b) the cases to which this section applies include cases in which income-tax could be charged quarterly under the provisions of this Act if those provisions were in force during the current income-tax year.

(3) The provisions of the Income Tax Acts as to the recovery of income-tax shall apply to each instalment of the tax in the same manner as they apply to the whole amount of the tax.

Considerable complication has been introduced by the new system of collection not applying

universally, but only to certain conditions. Schedule B is to be collected in two instalments when the land is occupied for husbandry only by an individual or firm; thus the tax on land occupied by municipal corporations or companies will be payable in one sum in January, and, moreover, the additional 20 per cent. will also be collectible at the same time, as the postponement of the increases of the new Act until July only apply to cases where the collection is ordinarily to be made half-yearly. As regards Schedule D, the collection by instalments only relates to *individuals and firms* carrying on a trade or a profession, so that companies and municipal undertakings will be chargeable in one sum, while unearned income, such as bank interest, is similarly collectible, and the 20 per cent. was also added in January.

For 1915-16 the January collection was to cover the liability under the original 1915 Act, while the July instalment related to the additional liability under the second Act.

Deduction of Tax in Scotland.

34.—Notwithstanding anything in Section 40 of the Income Tax Act, 1853, or in Section 15 of the Revenue (No. 1) Act, 1864, or in any other enactment, deductions in respect of income-tax under Schedule A on lands and heritages in Scotland made from any rent, interest, or payment due for the period ending on the fifteenth day of May, shall be made at the rate of the tax in force at the commencement of that period.

See p. 40 for deduction of tax.

Deduction of Excess Profits Duty.

35.—(1) Where any person has paid excess profits duty under this Act the amount so paid shall be allowed as a deduction for the purpose of income tax in computing the profits and gains of the year which included the end of the accounting period in respect of which the excess profits duty has been paid; but where any person has received repayment of any amount previously paid by him by way of excess profits duty, the amount repaid shall be treated as profit for the year in which the repayment is received.

The payment of excess profits duty shall not be deemed to be a specific cause for the purposes of Section 134 of the Income Tax Act, 1842.

(2) Where in any income-tax year the profits or gains from which a deduction may be made under this section come into computation, but owing to the time at which the amount of excess profits duty became ascertained it was impracticable to give effect to the deduction when assessing income-tax, the amount by which the income-tax would have been reduced if effect had been given to the deduction shall be deducted from the amount payable for excess profits duty or, if there is no excess profits duty, shall be repaid to the taxpayer.

The original proposals regarding deduction for income-tax purposes of Excess Profits Duty paid, provided vaguely for deduction in the year of *payment*, but the Act contains an amended section enacting that the income-tax profits shall be reduced for the year which included the end of the accounting period "in respect of which the Excess Profits Duty has been paid." This is more consistent with equity, and with e.g. a trading year ending on 31st December 1914, the duty payable this year would be deductible in arriving at the 1915-16, 1916-17, and 1917-18 income-tax assess-

ments. Further provision is made that when the income-tax assessment is made before the Excess Profits Duty is ascertained, the latter shall be reduced by the reduction applicable to income-tax, "and if there is no Excess Profits Duty shall be repaid to the taxpayer."

The payment of Excess Profits Duty is prohibited from being a "specific cause" under Section 134, which section allows the assessment to be based on actual profits instead of *average* profits when profits have been reduced by a "specific cause."

Service of Notices by Post.

36.—Any notice or other document to be given, served, sent, or delivered under the Income Tax Acts may be served by post in such cases as the Commissioners of Inland Revenue direct by regulations to be made by them for the purpose.

Any notice or other document to be given, served, sent, or delivered to or on an employed person may be served by post at his place of employment.

Time of Application of the Act.

37.—Any amendments made by this Part of this Act with respect to income-tax shall have effect as respects the tax for the current income-tax year, except where the context otherwise requires.

Excess Profits Duty.

Charge of Excess Profits Duty.

38.—(1) There shall be charged, levied, and paid on the amount by which the profits arising from any trade or business to which this Part of this Act applies, in any accounting period which ended after the fourth day of

August nineteen hundred and fourteen, and before the first day of July nineteen hundred and fifteen, exceeded, by more than two hundred pounds, the pre-war standard of profits as defined for the purposes of this Part of this Act, a duty (in this Act referred to as "Excess Profits Duty") of an amount equal to fifty per cent. of that excess.

(2) For the purposes of this Part of this Act the accounting period shall be taken to be the period for which the accounts of the trade or business have been made up, and where the accounts of any trade or business have not been made up for any definite period, or for the period for which they have been usually made up, or a year or more has elapsed without accounts being made up, shall be taken to be such period not being less than six months or more than a year ending on such a date as the Commissioners of Inland Revenue may determine.

Where any accounting period is a period of less than a year this section shall have effect as if there were substituted for two hundred pounds a proportionately reduced amount.

(3) Where a person proves that in any accounting period, which ended after the fourth day of August nineteen hundred and fourteen, his profits have not reached the point which involves liability to excess profits duty, or that he has sustained a loss in his trade or business, he shall be entitled to repayment of such amount paid by him as excess profits duty in respect of any previous accounting period, or to set off against any excess profits duty payable by him in respect of any succeeding accounting period such an amount as will make the total amount of excess profits duty paid by him during the whole period accord with his profits or losses during that period.

The war tax, statutorily termed "Excess Profits Duty," was based on the difference between

the profits of the trading year or period ending between 4th August 1914 and 1st July 1915 and the average profits of two of the three preceding trading years, the latter profits being termed "pre-war" profits. The choice of the two years lies with the taxpayer, and, of course, the best years will be chosen. The following example illustrates the basis of assessment, the profits being assumed as under :—

Year to 31st March 1912	..	..	..	£	£
" " 1913	..	..	..	8,200	
" " 1914	..	..	..	2,600	
" " 1915	..	..	..	7,000	
War Profits	..	..	..	24,000	24,000
Less .. .. .	..	..	..		200
					<u>23,800</u>
Pre-War Average—			£		
1912.. ..	..	..	8,200		
1914.. ..	..	..	7,000		
			<u>2)15,200</u>		
			7,600		
					<u>7,600</u>
					50%)16,200
Excess Profits Duty .. .. .	..	..	..	=	<u><u>£8,100</u></u>

Partners.

It was asked by a correspondent of *The Accountant* if partners can claim separate assessment to Excess Profits Duty and be allowed individually the exemption of £200.

There is no separate assessment, as the profits are to be determined in accordance with income-tax rules, and the charging clause is in respect of "the amount by which the profits arising from any trade or business . . . exceeded by more than £200 the pre-war standard of profits." The assessment is, therefore, not on the individual or the partnership, but on the profits of a business less £200, therefore the latter deduction has no relation to individual partners.

Another correspondent asked if it is intended that the duty shall be charged on the whole year's profit ending between 4th August 1914 and 1st July 1915 or only on the proportion from the former date, and it is pointed out that when accounts were made up to e.g. 31st August the duty would be charged on eleven months prior to the war, whereas when 30th June is adopted only one pre-war month would be adopted.

The Excess Profits Duty is chargeable on the full year's profit if the accounts are made up annually, and the apparent injustice is intended to remedy itself in the year following the end of the war. The law is specific, as it bases the assessment on the profits of the accounting period ending between the dates in question.

In a case recently noted in *The Accountant* a company made profits of £4,000 in the year to 31st December 1914, and the pre-war profits were £2,300. All this profit was made prior to August 1914, and from August to December a loss of £70 was incurred. It was asked if the year could be taken to end on 31st July.

It is statutorily provided that the basis of assessment is "the accounting period . . . for which the accounts . . . have been made up," and where the accounts have not been made up to the usual date the Board of Inland Revenue has the discretionary power of fixing the period. As the accounts have been made up to 31st December 1914, and observing the effect of the discretionary powers, there is legal support for adoption of the full year, but the Board should be requested, on equitable grounds, to allow the period to end on 31st July.

on accounts being actually prepared from 1st January 1914 to that date. In any case, however, as it appears that reduced profits are being made owing to the war, it will be competent to claim next year repayment of any Duty, under the provision that a subsequent deficiency of profit, as compared with the pre-war standard, carries a right of adjustment, so that the duty coincides with the total profits of two or more years. Assuming that in the year to 31st December 1915 a loss of £300 will be made, the matter will be determinable as follows :—

1915-16.						
Profit	..	..	..	..	..	£ 4,000
Less Exemption	..	..	..	..	..	200
						<hr/> 3,800
Less Pre-war Standard	..	..	..	..	..	2,300
						<hr/> 50%)1,500
Duty	..	..	..	..	..	<hr/><u>£750</u>
1916-17.						
Pre-war standard	..	..	..	..	..	£ 2,300
Add Loss	..	..	..	..	£300	
Exemption	..	..	..	..	200	
						<hr/> 500
						<hr/> 50%)2,800
Repayable amount	..	..	..	..	..	<hr/><u>£1,400</u>

There would, therefore, be repayment of the full £750. The total profits, less exemption for two years, were £3,300, and the two years' pre-war standards £4,600, therefore there is no duty payable.

Taxation of War Excess as a Whole.

The object of subsec. (3) is that the *excess* profits for the whole period of the war shall bear duty as if one assessment on the entire profits were made, therefore the result to be attained is that the duty shall be so adjusted as to meet this requirement.

Assume that the war lasts three years, and that the total profits for those three years are £60,000, being uniformly £20,000 per annum, while the pre-war standard is £10,000. Duty will be payable as follows :—

Profits	£	60,000
Less 3 years' exemptions	600	
	<u>59,400</u>	
Less 3 years' pre-war standard	30,000	
	<u>29,400</u>	
50 per cent.)	29,400	
	<u>£14,700</u>	

Now if the profits were not uniform but still of the same total amount, the working would be as follows :—

Profits 1914	£	22,000	£
" 1915	40,000		
" 1916 Loss			2,000
	<u>£62,000</u>		

ASSESSMENTS.

1915-16.

Profit	22,000	
Less exemption	200	
	<u>21,800</u>	
Less pre-war standard	10,000	
	<u>11,800</u>	
50 per cent.)	11,800	
	<u>£5,900</u>	

1916-17.

Profit	40,000	
Less exemption	200	
	<u>39,800</u>	
Less pre-war standard	10,000	
	<u>29,800</u>	
50 per cent.)	29,800	
	<u>£14,900</u>	

1917-18.

Pre-war standard	10,000	
Ada loss	£2,000	
Exemption	200	
	<u>2,200</u>	
50 per cent.)	12,200	
	<u>£6,100</u>	
Repayment		

The result would, therefore, be as follows :—

1915-16	..	..	..	..	..	..	£ 5,900
1916-17	..	..	..	..	..	..	14,900
							<hr/>
1918-19	..	..	..	..	..	..	20,800
							6,100
							<hr/>
							£14,700
							<hr/>

The exemption of £200 should, therefore, apply to each year in order to coincide with the total deduction *en bloc* on the three years' exemptions.

The subsection refers to *any* accounting period which ended after 4th August 1914, and no date *before* which the period is to end is fixed. The provision will thus operate in the subsequent extensions of the Act which are intended, and, in fact, the statutory provisions as an entity will apply to subsequent years.

Application of Excess Profits Duty.

39.—The trades and businesses to which this Part of this Act applies are all trades or businesses (whether continuously carried on or not) of any description carried on in the United Kingdom, or owned or carried on in any other place by persons ordinarily resident in the United Kingdom, excepting—

- (a) husbandry in the United Kingdom; and
- (b) offices or employments; and
- (c) any profession the profits of which are dependent mainly on the personal qualifications of the person by whom the profession is carried on and in which no capital expenditure is required, or only capital expenditure of a comparatively small amount,

but including the business of any person taking commissions in respect of any transactions or services rendered, and of any agent of any description (not being a commercial traveller, or an agent whose remuneration consists

wholly of a fixed and definite sum not depending on the amount of business done or any other contingency).

A company of general merchants and farmers was formed on 31st July 1914 from separate businesses, and a "specific cause" was admitted, assessment being made on the basis of a new business. The accounts to 30th June 1915 have been prepared, and show a heavy loss on the farms, but good profits on the other departments. It was asked by a correspondent, in view of the exclusion of farming from the Excess Profits Duty, if the loss on the farm will be allowed as a set-off against the profit of the remaining part of the business.

The Act charges "all trades or businesses" excepting "husbandry," therefore, on that provision, the farm loss would be excluded, but there is also a provision under which the Board of Inland Revenue is empowered to make regulations "with respect to the assessment and collection of the excess profits duty," and may apply and adapt any income-tax enactments relating to assessment and collection. The writer would, therefore, advise that the matter be placed before the Board at once, with an inquiry whether e.g. the 1890 Act or Section 101 of the 1842 Act will operate. The Act specifically includes profits from lands forming part of the *assets* of the trade or business, and it could also be asked if the loss would be admitted by the Board under that provision. The point should be emphasised that the different departments are only part of the one business. It has been stated in the House that the principle of Section 101 will apply; but it is not clear with regard to one of the businesses being outside the scope of the duty.

Farmers.

In a case submitted by "Premature" a farmer was assessed under Schedule B on £200, which, under the new Finance Act, will be trebled, but his actual profits are £500. It is asked if Excess Profits Duty would be chargeable if the farmer elects to be assessed under Schedule D.

The Finance Act specifically excludes farming profits from Excess Profits Duty, Section 39 exempting "husbandry in the United Kingdom," therefore the exercising of the option of assessment under Schedule D is irrelevant, in effect, on the duty.

Pre-War Standard.

40.—(1) The profits arising from any trade or business to which this Part of this Act applies shall be separately determined for the purpose of this Part of this Act, but shall be so determined on the same principles as the profits and gains of the trade or business are or would be determined for the purpose of income-tax, subject to the modifications set out in the First Part of the Fourth Schedule to this Act and to any other provisions of this Act.

(2) The pre-war standard of profits for the purposes of this Part of this Act shall, subject to the provisions of this Act, be taken to be the amount of the profits arising from the trade or business on the average of any two of the three last pre-war trade years, to be selected by the taxpayer (in this Part of this Act referred to as the profits standard): Provided that if it is shown to the satisfaction of the Commissioners of Inland Revenue that that amount was less than the percentage standard as hereinafter defined, the pre-war standard of profits shall be taken to be the percentage standard.

The percentage standard shall, for the purposes of this Part of this Act, be taken to be an amount equal to the statutory percentage on the capital of the trade or busi-

ness as existing at the end of the last pre-war trade year, subject, however, to the provisions of this Act as to any alteration in the manner of calculating the percentage standard in special cases.

The statutory percentage shall be 6 per cent. in the case of a trade or business carried on or owned by a company or other body corporate, and 7 per cent. in the case of any other trade or business, subject, however, to the provisions of this Act as to the increase in that percentage in certain cases.

The provisions contained in the Second Part of the Fourth Schedule to this Act shall have effect with respect to the computation of the profits of a pre-war trade year, and the provisions contained in the Third Part of the Fourth Schedule shall have effect with respect to the ascertainment of capital for the purposes of this Part of this Act.

“The last pre-war trade year” means the year ending at the end of the last accounting period before the fifth day of August nineteen hundred and fourteen, and “the three last pre-war trade years” means the three years ending at the three corresponding times.

(3) Where it appears to the Commissioners of Inland Revenue, on the application of a taxpayer in any particular case, that any provisions of the Fourth Schedule to this Act should be modified in his case, owing to a change in the constitution of a partnership or to the postponement or suspension, as a consequence of the present war, of renewals or repairs, or to exceptional depreciation or obsolescence of assets employed in the trade or business due to the present war, or to the necessity in connection with the present war of providing plant which will not be wanted for the purposes of the trade or business after the termination of the war, or to any other special circumstances specified in regulations made by the Treasury, those Commissioners shall have power to allow such modifications of any of the provisions of that schedule as they think necessary in order to meet the particular case.

If the Commissioners refuse, on any such application, to allow any modification, or if the applicant is dissatisfied with any modification allowed, the applicant may require the Commissioners to refer the case to a Board of Referees, to be appointed for the purposes of this Part of this Act by the Treasury, and that Board shall consider any case so referred and have the same powers with respect thereto as the Commissioners have.

The pre-war standard is thus based on the two *best* years of the last three trading years ending before the commencement of the war.

The modification of the provisions of the Fourth Schedule regarding calculation of profits and capital is thus permitted in the following cases on application to the Board of Inland Revenue, and there is a further right to require the application to be determined by the Board of Referees. The modification is to "meet the particular case," so that each case must be treated on its own merits.

- (1) Change in the constitution of a partnership.
- (2) Postponement or suspension of renewals or repairs owing to the war.
- (3) Exceptional depreciation or obsolescence of assets, used in the trade, due to the war.

See p. 84 for official practice.

- (4) Provision of plant which will not be required for the business after the war.
- (5) Other special circumstances specified in Treasury regulations.

Stocks.

The following official memorandum shows the practice regarding stock-in-trade :—

The Board of Inland Revenue are prepared to adopt the following modifications of the general principle that stocks should be valued at cost price or market value, whichever is the lower.

1. A period of two years will be allowed after the termination of the war in which to ascertain by actual realisation the value of the stock appearing in the account at the end of the last accounting period, and an allowance made from the profits of that period for any difference between the valuation and the sum realised.

The loss (if any) on only such stocks as were in hand at the end of the last accounting period will be brought into the adjustment, but the whole of such stocks, not individual parcels selected by the taxpayer, must be considered.

The necessary sanction for this modification of general principles will be given by a regulation under Section 40, Subsection 3, of the Finance (No. 2) Act, 1915.

2. Certain classes of industry require to keep stocks of raw or semi-manufactured goods for the purposes of manufacturing processes, and these goods are frequently of such an imperishable character that a minimum quantity required for a business could be held untouched for a long period.

Accordingly, any class of trade—

- (a) which requires for its manufacturing processes to keep such stocks, and
 - (b) in which a recognised practice has obtained of valuing a constant quantity at a fixed price,
- the Board of Inland Revenue are prepared to recognise the practice.

The Board of Inland Revenue would regard goods as imperishable which are of sufficient durability to last without material deterioration during a period equal to the length of the war.

Any individual member of the class who has not adopted the method in his business may be allowed to do so for the purposes of Excess Profits Duty, but may not claim as the constant quantity of stock so valued a greater quantity than the minimum amount held at any stocktaking in the three pre-war trade years.

Where a claim is made that an industry should be brought within this concession the Board of Inland Revenue are prepared to receive representations and to consider evidence as to the existence of a material body of such practice in the industry and as to the character of the stocks to which it is claimed the method should be applied, with a view to securing the uniform treatment of all members of the industry.

The balance of stock above the minimum quantity in cases falling under this modification of the general principle is to be treated as in (1).

3. Profits derived from sales which reduce stock below the particular minimum or constant quantity adopted for any business are not the less trading profits. Where, however, a raw material is associated with plant in a manufacturing process (e.g. metal kept to a constant level in galvanising baths), the Board of Inland Revenue will consider a claim under Section 40 (3) of the Finance (No. 2) Act, 1915, that it is akin to a capital asset, like plant, which has been exceptionally depreciated (by depletion) or of which the renewal has been postponed.

4. Where in an industry or as respects a class of stock to which the foregoing (2) does not apply, the owner of a business has taken a quantity of stock at a base price, the stock will fall to be valued during the periods of

liability at cost or market value, whichever is the lower ; but from the final valuation (on that basis) there will be allowed a deduction of a sum (in pounds sterling) equal to the original difference (at the end of the standard period) between the valuation on the base method and a valuation on the cost or market value method. Alternatively, the first stock valuation may be revised and put upon the general basis of cost or market value, when the modification outlined in (1) will apply.

Depreciation.

The official practice for Excess Profits Duty is as follows :—

1. Excess Profits Duty is chargeable, generally speaking, by reference to profits which are computed on income-tax principles ; but the temporary character of the duty and its relation to the existing war conditions have rendered necessary special allowances for depreciation in the value of assets, additional to the allowances granted for income-tax purposes. It is the purpose of this memorandum to explain shortly the nature and extent of these various provisions in the case of Excess Profits Duty, and more particularly their practical application to the profits of a manufacturing business.

2. So far as income-tax is concerned, it is well known that allowances are restricted to the diminution in value due to wear and tear of plant and machinery (Section 12 of Customs and Inland Revenue Act, 1878). For Excess Profits Duty purposes, on the other hand, further allowances are admissible : Section 40 (3) of the Finance (No. 2) Act, 1915, provides for special relief being granted in respect of—

(a) postponement or suspension, as a consequence of the present war, of renewals or repairs ;

- (b) exceptional depreciation or obsolescence of assets employed in the business due to the present war ; and
- (c) the necessity in connection with the war of providing plant which will not be wanted for the purposes of the trade or business after the termination of the war.

3. These allowances extend to any material assets employed in a business and not merely to machinery and plant. Where these assets have been constructed or acquired during the war at an inflated price and will sink to a lower level of value, or even to scrap value, at the end of the war, full relief can be claimed. The measure of the allowance to be made in respect to such assets will be the difference between cost and post-war value. An allowance of the like nature is, of course, applicable also to assets in use before the war, the value of which has fallen owing to war causes. The measure of the allowances in such cases is the difference between the value of the assets (depreciated or written down for wear and tear) at the date when liability to Excess Profits Duty began and their post war value.

4. Inasmuch as post-war value and the duration of the war are unknown, the Board of Inland Revenue have been unable in most cases to make final allowances of the foregoing character, but where the necessary evidence is furnished that depreciation is taking place or is inevitable at the end of the war, they are ready to make provisional allowances subject to subsequent correction.

5. As a general rule these allowances, whether provisional or final, will be "spread," i.e. granted by instalments in successive accounting periods during the lifetime of the duty ; but in exceptional cases where new assets are being regularly acquired during successive accounting

periods, and the taxpayer desires that the allowance (whether provisional or final) for each asset or group of assets should be wholly or mainly granted in the accounting period in which the asset is acquired, the Board will not object to that course being taken.

6. Where, in the case of businesses which are "controlled" under the Munitions of War Act, 1915, allowances of the foregoing character for depreciation or obsolescence have been determined by the Minister of Munitions for purposes of the Munitions Levy, the amounts so ascertained have been adopted by the Board of Inland Revenue for Excess Profits Duty purposes. The repeal of the munitions levy as at 31st December 1916, and the transfer to the Board of Inland Revenue of the duty of assessing and collecting the levy (up to that date)—recently enacted by the Finance Act, 1917—involve an alteration of existing arrangements to the extent that depreciation allowances not already ascertained by the Ministry of Munitions will fall to be determined by the Board of Inland Revenue, who have made arrangements to secure continuity of practice in the methods of granting the allowance.

7. Where a taxpayer is dissatisfied with the allowances granted by the Board of Inland Revenue in respect of special depreciation or obsolescence of assets, he may require his case to be referred to the Board of Referees appointed under Part III of the Finance (No. 2) Act, 1915, or—in the case of a "controlled" firm—to the Board of Referees appointed under the Munitions of War Act, 1915.

8. For Excess Profits Duty, the allowance for wear and tear of plant and machinery will usually be similar to the allowance granted under the Income Tax Acts. Its amount is to be that reasonably and properly attributable to the accounting period (Finance (No. 2) Act, 1915, Fourth Schedule, Part I, Rule 3). The income-tax allow-

ance for wear and tear (which is fixed by the income-tax Commissioners) is not limited by statute to any specific amount or rate, the only provision being that it shall represent the diminished value of the plant and machinery by reason of wear and tear during the year. Where for any special reason it is claimed that the allowance for wear and tear of machinery and plant should, for Excess Profits Duty, exceed that allowed for income-tax, application should be made in the first instance to the Surveyor of Taxes dealing with the Excess Profits Duty assessment. An appeal on the question may be made either to the District Commissioners of Taxes or to the Special Commissioners.

9. Generally speaking, the ordinary allowance for wear and tear in the case of Excess Profits Duty is of comparatively small importance in so far as it relates to plant and machinery which may be the subject of an allowance for special depreciation owing to the war, as explained above. In such cases the difference between war value and post-war value necessarily includes the ordinary allowance for wear and tear.

10. As regards the allowance authorised for the postponement or suspension, as a consequence of the war, of renewals or repairs, the amount admissible is usually capable of estimation and agreement when an Excess Profits Duty assessment is made. The taxpayer has the right of appeal to the Board of Referees appointed under Part III of the Finance (No. 2) Act, 1915, or—in the case of a “controlled” firm—to the Board of Referees appointed under the Munitions of War Act, 1915.

11. Reference may also be made to the following points on which questions sometimes arise :—

- (a) Where pre-war machinery or plant has become obsolete from causes not actually relating to the

war but arising during the war, and is then replaced, an allowance for the difference between the written-down value and the scrap value is admissible, and where the replacement is not effected during the war, but shortly after, a like allowance may be claimed under Section 40 (3) of the Finance (No. 2) Act, 1915.

- (b) Special depreciation of pre-war buildings due to the war may be allowed for under the same subsection. Normal depreciation taking place equally in the past and in the present, if allowed, would not, in most cases, affect the liability to Excess Profits Duty.
- (c) It will happen from time to time that a manufacturer will purchase machines, &c., for the purpose of specific contracts, and will wish, from motives of prudence, to write down the value of the machines to a low figure out of the profits of the contracts. In cases in which purchases of this character have regularly occurred, both in the past and in the present, the non-allowance of a special depreciation beyond the ordinary wear and tear allowance would not normally affect the liability to Excess Profits Duty. Where, on the other hand, purchases of this kind take place only during war periods, they would usually be attributable to war conditions, in which event a special allowance can be claimed under Section 40 (3) of the Finance (No. 2) Act, 1915.

Excess Profits Duty.**FOURTH SCHEDULE.**

PART I.—COMPUTATION OF PROFITS.

1. The profits shall be taken to be the actual profits arising in the accounting period; and the principle of computing profits by reference to any other year or an average of years shall not be followed.

2. The principle of the Income Tax Acts under which deductions are not allowed for interest on money borrowed for the purpose of the trade or business, or for rent, or royalties, or for other payments income-tax on which is collected at the source (not being payments of dividends or payments for the distribution of profits), and under which profits or gains arising from lands, tenements, or hereditaments forming part of the assets of the trade or business are excluded shall not be followed.

3. Deductions for wear and tear or for any expenditure of a capital nature for renewals, or for the development of the trade or business or otherwise in respect of the trade or business, shall not be allowed except such as may be allowed under the Income Tax Acts, and if allowed shall be only of such amount as appears to the Commissioners of Inland Revenue to be reasonably and properly attributable to the year or accounting period.

4. Deductions shall not be allowed on account of the liability to pay, or the payment of, income-tax or excess profits duty, but a deduction shall be allowed (if not otherwise allowed by means of the adoption of the principle of the Income Tax Acts) for any sum which has been paid in respect of the profits on account of any excess profits duty or similar duty imposed in any country outside the United Kingdom.

5. Any deduction allowed for the remuneration of directors, managers, and persons concerned in the management of a trade or business shall not, unless the Commissioners

of Inland Revenue, owing to any special circumstances or to the fact that the remuneration of any managers or managing directors depends on the profits of the trade or business, otherwise direct, exceed the sums allowed for those purposes in the last pre-war trade year or a proportionate part thereof as the case requires, and no deduction shall be allowed in respect of any transaction or operation of any nature, where it appears, or to the extent to which it appears, that the transaction or operation has artificially reduced the amount to be taken as the amount of the profits of the trade or business for the purposes of this Act.

6. Where any company, either in its own name or that of a nominee, owns the whole of the ordinary capital of any other company carrying on the same trade or business or so much of that capital as under the general law a single shareholder can legally own, the provisions of Part III of this Act as to excess profits duty and the pre-war standard of profits shall apply as if that other company were a branch of the first-named company, and the profits of the two companies shall not be separately assessed.

7.—Where in the case of any trade or business—

- (a) the percentage standard is adopted as the pre-war standard of profits; and
- (b) the net result of the trade or business during the three last pre-war trade years has shown a loss; and
- (c) any part of the profits has been applied in extinction of that loss;

then in estimating the profits a deduction shall be allowed equal to the amount of profits so applied.

8.—In estimating the profits no account shall be taken of income received from investments except in the case of life assurance businesses and businesses where the principal business consists of the making of investments. Where account is taken of any such income—

- (a) any variation in the value of any of those investments which appears to the Commissioners of Inland Revenue not to be due to a variation in profits shall also be taken into account; and
- (b) where the income has been derived from profits in respect of which any payment or repayment of excess profits duty has been made under this Act, such deduction or addition shall be made in computing the profits as will make proper allowance for that payment or repayment of duty.

9.—In computing the total profits of a local authority from any trades or businesses carried on by that authority the total amount which is required to be raised by them, out of the rates or otherwise, for sinking fund purposes in connection with those trades or businesses shall be allowed as a deduction.

10.—In the case of societies registered under the Industrial and Provident Societies Acts the excess profits duty shall be charged on the sum by which the profits per member for the accounting period (including any surplus arising from transactions with members) exceed the like profits per member in the pre-war trade year or average of years taken as the basis of computation for the purpose of the pre-war standard of profits, multiplied by the number of members in the accounting period.

11.—In the case of any contract extending beyond one accounting period from the date of its commencement to the completion thereof and only partially performed in any accounting period there shall (unless the Commissioners of Inland Revenue, owing to any special circumstances, otherwise direct) be attributed to each of the accounting periods in which such contract was partially performed, such proportion of the entire profits or loss or estimated profits or loss in respect of the complete performance of the contract as shall be properly attributable to such accounting periods respectively, having

regard to the extent to which the contract was performed in such periods.

Artificial Transactions.

5. For income-tax the profits of private limited companies where the shares are practically all held by one man are often absorbed in directors' remuneration so as to avoid the "unearned" rates which attach to limited companies, but the above schedule provides against such adjustment for Excess Profits Duty, which is necessary in view of the fact that the duty does not apply to employments.

See also p. 108.

Losses.

7. The working of this is shown as follows :—

Assume the profits to have been as follows, and the capital £10,000.

Year to 31st December				£
			1911	1,000
"	"	"	1912	600 loss
"	"	"	1913	800 loss
"	"	"	1914	4,000

The pre-war standard would thus be £600, adopting 6 per cent. as the capital percentage, and the net loss on the three years to 1913 would be as follows :—

				£	£
1911 ..	..	..	..	1,000	
1912 ..	..	..	loss		600
1913 ..	..	..	"		800
				<hr/>	<hr/>
				1,000	1,400
					1,000
					<hr/>
Net loss ..					£400
					<hr/>

On the loss being made good from the 1914 profits, those profits would be reduced to £3,600 for Excess Profits Duty.

PART II.—PRE-WAR STANDARD.

1. The profits of any pre-war trade year shall be computed on the same principles and subject to the same provisions as the profits of the accounting period are computed.

2. Where the accounting period for which the excess profits duty is to be assessed is less than a year, the amount of the pre-war standard of profits shall be proportionately reduced.

3. Where it is shown to the satisfaction of the Commissioners of Inland Revenue in the case of any trade or business that the three last pre-war trade years have been years of abnormal depression, any four of the last six pre-war trade years may be substituted for the purposes of the pre-war standard of profits for any two of the three last pre-war trade years.

The three last pre-war trade years shall not be considered as years of abnormal depression unless the average profits of those years have been at least twenty-five per cent. lower than the average profits of the preceding three years.

4. Where owing to the recent commencement of a trade or business there have not been three pre-war trade years, but there have been two pre-war trade years, the pre-war standard of profits shall be taken to be the amount of the profits arising from the trade or business on the average of those two years or, at the option of the taxpayer, the profits arising from the trade or business during the last of those two years, and where there have not been two pre-war trade years, but there has been one pre-war trade year, the pre-war standard of profits shall be taken to be the profits arising from the trade or business during that year; and where there has not been one pre-war trade year, the pre-war standard of profits shall be taken to be the statutory percentage on the average amount of capital

employed in the trade or business during the accounting period.

Where the trade or business is an agency or business of a nature involving capital of a comparatively small amount, the pre-war standard of profits shall be computed by reference to the profits arising from any trade, business, office, employment, or profession of any sort, whether liable to excess profits duty or not, carried on by the agent or other person before his new trade or business commenced as if it was the same trade or business; but only to the extent to which the income from the former trade, business, office, employment or profession has been diminished.

5. Where since the commencement of the three last pre-war trade years a trade or business has changed ownership, the provisions of this Part of this Schedule shall apply as if a new trade or business had been commenced on the change of ownership, except in cases when the taxpayer makes an application that the provisions of Part III of this Act and this Schedule should apply as if the trade or business had not changed ownership, but in that case such modifications (if any) shall be made in the application of this Schedule as may be necessary to make the basis on which the profits standard is computed the same as that on which the profits of the accounting period are computed.

6. It is hereby declared that, where any business or trade is confined to the management of any particular assets, but power exists to substitute other assets for those particular assets or any of them, such a substitution shall not be deemed, for the purposes of Part III of this Act, to constitute a change of ownership of the business; but, where any such substitution has been carried out by the sale of assets and the purchase of other assets, the capital of the trade or business shall be taken to be increased or decreased, as the case may be, only by the amount of the

difference between the price of the assets purchased and the price obtained for the assets sold, and the capital representing the assets purchased shall be estimated on the same basis for all the purposes of Part III of this Act.

2. See p. 72.

3. The following example shows the working of this. The profits are assumed as under.

	(a)		(b)
	£		£
1908 ..	5,000	1911 ..	2,000
1909 ..	6,000	1912 ..	3,000
1910 ..	4,000	1913 ..	3,000
	<u>3)15,000</u>		<u>3)8,000</u>
	£5,000		£2,666
	<u><u>£5,000</u></u>		<u><u>£2,666</u></u>

The ordinary pre-war average would be the average of 1912 and 1913, being the two best years in the three last pre-war years, viz. £3,000. The average of (a) the three last pre-war years is at least 25 per cent. lower than the average of (b) the three years preceding those years, so that the rule applies, and the former basis would thus be as follows :—

	£
1908	5,000
1909	6,000
1910	4,000
1912	3,000
	<u>4)18,000</u>
	£4,500
	<u><u>£4,500</u></u>

Controlled Establishments.

In the case of trading concerns controlled under the Munitions of War Act, 1915, the excess profit is taken by the Government over an addition of one-fifth to the pre-war standard, based, subject to modifications, on the average

of the two trading years immediately preceding 4th August 1914. The Act came into operation on 2nd July 1915, and this is the reason of the Finance (No. 2) Act, 1915, only relating to accounting periods ending between 4th August 1914 and 1st July 1915, thus avoiding the question of controlled concerns. (See pp. 143, 168.)

Change of Ownership.

When a change in ownership has occurred in the *pre-war period*, i.e. the three years to 31st December 1913, or to 31st March 1914, when 31st March is the date of making up accounts—the business is to be treated as new from the date of change. A business commencing *during* the *last* pre-war years, as e.g. on 30th June 1913, has to take the pre-war standard as 6 per cent on the *average* capital employed during the war-profits year. Thus, assume the trading year to end on 31st December, and the profits to be as follows:—

					£
6 months to Dec. 31st 1913 ..	..	..	..	..	3,000
Year to Dec. 31st 1914 ..	..	..	..	..	20,000

The commencing capital was £10,000, and on 31st March 1914 a further £10,000 was added. while on 1st September 1914, in view of the war, an additional £20,000 was put into the business. Now, in the year to 31st December 1914, the capital was thus as follows:—

						£
3 months at ..	..	..	..	..	..	10,000
5 " " ..	..	..	..	..	..	20,000
4 " " ..	..	..	..	..	..	40,000

The average capital for the year to 31st December 1914 would, therefore, be £24,166, and the

pre-war standard would, at 6 per cent., be £1,450, giving an assessment as follows :—

War profits	£	20,000
Less exemption		200
		<hr/>
		19,800
Pre-war standard		1,450
		<hr/>
	50%)	18,350
		<hr/>
		£9,175
		<hr/>

When the change occurred on e.g. 30th June 1912, and *one* pre-war trading year is thus existent, the profit of that year is the pre-war standard, and when the change took place in 1911 there would be two complete trading years, and the average thereof forms the basis.

An absolutely new business is treated in the same manner as the case of a change in ownership.

PART III.—CAPITAL.

1. The amount of the capital of a trade or business shall, so far as it does not consist of money, be taken to be—

- (a) so far as it consists of assets acquired by purchase, the price at which those assets were acquired, subject to any proper deductions for wear and tear or replacement, or for unpaid purchase money; and
- (b) so far as it consists of assets being debts due to the trade or business, the nominal amount of those debts subject to any reduction which has been allowed in respect of those debts for income-tax purposes; and
- (c) so far as it consists of any other assets which have not been acquired by purchase, the value of the assets at the time when they became assets of the trade or business, subject to any proper deductions for wear and tear or replacement.

Nothing in this Part of this Schedule shall prevent accumulated profits employed in the business being treated as capital.

2: Any capital the income on which is not taken into account for the purposes of Part I of this Schedule, and any borrowed money or debts, shall be deducted in computing the amount of capital for the purposes of Part III of this Act

3. Where any asset has been paid for otherwise than in cash, the cost price of that asset shall be taken to be the value of the consideration at the time the asset was acquired, but where a trade or business has been converted into a company and the shares in the company are wholly or mainly held by the person who was owner of the trade or business, no value shall be attached to those shares so far as they are represented by goodwill or otherwise than by material assets of the company unless the Commissioners of Inland Revenue in special circumstances otherwise direct. Patents and secret processes shall be deemed to be material assets.

Excess Profits Duty.

A correspondent asked in *The Accountant* if, in ascertaining the amount of capital for the Excess Profits Duty, all past depreciation, bad debts reserve, or other amounts written off but *not* allowed for income-tax purposes, may be written back to the debit of the asset accounts. It is also inquired if there is any standard treatment of goodwill, and if, where it is not valued and thus forms a secret reserve, a reasonable amount can be introduced.

The profits are to be ascertained on income-tax principles and the depreciation will follow the same course, the value of an asset being taken to be the value as written down for income-tax purposes subject to the provision that the initial value must be the purchase price of purchased assets, the nominal value of bad debts, and the value when acquired of assets not acquired by purchase. An

appeal is allowed to the local and Special Commissioners, so they cannot fix a depreciation heavier than that admitted for income-tax without admitting that the income-tax allowances made by them were incorrect. As regards goodwill, the definition of capital does not include this asset, except when it was purchased, but any asset not acquired by purchase must be taken at the value when it became an asset. Allowances are made for "wear and tear or replacement," thus pointing to material assets, and it is provided that when the purchase price of a business was paid in shares in the purchasing company no value is to be included in regard to goodwill or assets other than material assets. Debts are to be deducted, as also capital invested. The scheme of the adoption of a percentage on the capital as the pre-war standard refers obviously to material assets, an increase or decrease in which could affect the profits.

Capital.

When the pre-war standard is less than 6 per cent. on the capital of the business *as at the end of the last pre-war trading year*, the standard may be taken as 6 per cent. for companies and 7 per cent. for private firms. The substituted percentage of 6 is, however, *only* a prima facie figure, and there are powers for the Board of Referees to fix for each *class* of business a just and proper percentage. Assume the profits to be as follows, and the capital £100,000, at 31st *December* 1913.

					£
Year to Dec. 31st 1911	..	..	..	..	6,000
" " " 1912	..	..	..	.. loss	1,000
" " " 1913	..	..	..	..	2,000
" " " 1914	..	..	..	..	52,000

The pre-war standard would be :—

1911	£
1913	6,000
	<u>2,000</u>
	2)8,000
	<u>£4,000</u>

As this standard is less than 6 per cent. on the capital the standard becomes £6,000, and the assessment would be as follows :—

War Profit	£
Less Exemption	52,000
	<u>200</u>
	51,800
Pre-war Standard	<u>6,000</u>
	50%)45,800
	<u>£22,900</u>

The Board of Referees are to consider—on application being made by the taxpayer to the Board of Inland Revenue, and on the latter considering that the application is not frivolous or vexatious, nor relates to matters already decided by the Board of Referees—the following claims for increase of the capital percentages of six for a company and seven for an individual or partnership :—

- (1) Any class of trade or business.
- (2) Any subdivision of a trade or business on the ground of any special feature or locality.

When, in any class of trade or business, the amount of capital actually employed is, owing to the nature of the trade or business “small compared with the capital necessarily at stake,” the percentage standard may be calculated wholly or partly by reference to some factor other than capital.

Variation of Capital.

41.—(1) Where capital has been increased during the accounting period, a deduction shall be made from the profits of the accounting period at the statutory percentage per annum on the amount by which the capital has been increased, for the whole accounting period if the increased capital has been employed for the whole accounting period, and if the increased capital has been employed for part only of the accounting period, for that part of the accounting period.

(2) Where capital has been decreased during the accounting period, an addition shall be made to the profits of the accounting period at the statutory percentage per annum on the amount by which the capital has been so decreased, for the whole accounting period, if the capital has been decreased for the whole accounting period, and if the capital has been decreased for part only of the accounting period, for that part of the accounting period.

(3) For the purposes of this section capital shall be taken to be increased or decreased, as the case may be, where the pre-war standard of profits is a profits standard, if the capital employed in the trade or business exceeds or is less than the average amount of capital employed during the pre-war trade years or year by reference to which the profits standard has been arrived at, and, where the pre-war standard of profits is a percentage standard, if the capital exceeds or is less than the capital on which the percentage standard has been calculated.

(4) Where any capital employed in a trade or business which was so employed for the first time within three years before the first day of August nineteen hundred and fourteen has only commenced to be remunerative or fully remunerative in the accounting period, an amount equal to the statutory percentage, or where interest has been earned on the capital, but at a rate less than the statutory percentage, an amount which would bring the interest

earned on the capital up to the statutory percentage, as the case may be, shall be added to the profits standard.

An addition has been made to the original provisions relating to increased and decreased capital by it being enacted as above that capital shall be taken to be increased or decreased as follows :—

- (a) When a *profits* pre-war basis is adopted, if the capital employed in the war profits period differs from the average capital during the pre-war years included in the pre-war standard.
- (b) When a *capital* pre-war basis is adopted, if the capital differs from the capital on which the pre-war standard is calculated.

New Capital.

When new capital has been employed *subsequently to the end of the pre-war period*, the war profits are reducible by the statutory percentage on that capital, subject to the above restrictions, with a proportionate reduction if such capital has only been introduced for part of the war profits period ; thus, assuming that £50,000 new capital was introduced as 1st September 1914, to deal with war work, the war profits would be reduced by one-third of, say, 6 per cent. on £50,000 = £1,000, being the proportion for the four months to 31st December 1914, and assuming that the average capital during the 2 years forming the average for the pre-war standard was the same as the capital existent before the increase, the assessment would be as follows, assuming the profits to be those stated above :—

War Profit	£	£
Less on A/c of new capital	1,000	52,000
" exemption	200	
	<hr/>	1,200
Pre-War Standard (say)		50,800
		<hr/>
		6,000
		<hr/>
	50%	44,800
		<hr/>
		£22,400
		<hr/>
		<hr/>

Withdrawn Capital.

The converse applies to capital existent on 31st December 1913 and withdrawn on e.g. 30th June 1914. If £10,000 had been withdrawn, an addition would be made to the war profits of one-half of, say, 6 per cent. on £10,000 = £300, making the above war profit £52,300.

Unremunerative Capital.

When capital employed for the first time *within three years before 1st August 1914* only commenced to be remunerative or fully remunerative in the war profits period, i.e. in the year to 31st December 1914, when the trading year ends on 31st December, the statutory percentage on an amount which would bring the interest on capital up to the statutory percentage is to be added to the pre-war standard.

Board of Referees and Capital.

42.—Where an application is made to the Commissioners of Inland Revenue—

- (1) For an increase of the statutory percentage as respects any class of trade or business, or for a calculation of the percentage standard in the case of any class of trade or business in which the amount of capital actually employed in the trade or business is, owing to the nature of the trade or business, small compared with the capital neces-

sarily at stake for that trade or business, by reference to some factor other than the capital of the trade or business or to some additional factor; or

- (2) For an alteration of the pre-war standard of profits as respects capital employed for the purpose of the manufacture of war materials or for munitions work and which could not be expected to be remunerative or wholly remunerative, except in time of war, in a business which has been wholly or mainly carried on for those purposes;

the Commissioners, unless they are of opinion that the application is frivolous or vexatious or relates to matters already decided by a Board of Referees, shall refer the case to a Board of Referees to be appointed for the purpose of this Part of this Act by the Treasury, and that Board shall deal with the case, and may, by order, if they think fit, increase the statutory percentage or alter the percentage standard for the class of trade or business the subject of the order, or alter the pre-war standard of profits, as the case requires.

On any such order being made, this Part of this Act shall have effect as from the date named in the order as if the percentage or standard named in the order was substituted for the percentage or standard fixed by this Act; and where, in pursuance of any such order, the statutory percentage is increased or the percentage standard is altered as respects any class of trade or business, the statutory percentage shall be increased and the percentage standard shall be altered respectively for all purposes of this Part of this Act as respects any trade or business belonging to that class.

This section shall apply to any subdivision of a trade or business based either on any special feature of the trade or business or on locality as it applies to a class of trade or business, in any case where the Board of Referees

are of opinion that the subdivision can properly be dealt with separately.

See p. 101.

The names of the members of the Board of Referees have been disclosed, and it is welcome to note that, as was urged in *The Accountant*, the accountancy profession has received due representation. The wisdom of this is apparent, as no body is better able to deal with the question of capital which is predominant in the provisions regarding assessment of the Excess Profits Duty. The recognition of the profession is, moreover, of vast significance, as being a step towards a wider official acknowledgment of the position of accountancy in the revenue-producing system of this country. The following gentlemen were originally appointed :—

Sir H. Woodburn Kirby, President of the Institute of Chartered Accountants.

A. O. Miles, Esq., Past-President of the Institute of Chartered Accountants.

R. H. March, Esq., Cardiff.

W. H. Cook, Esq., President Scottish Chartered Society of Accountants.

J. G. Fowler, Esq.

Sir William Peat; Past-President of the Institute of Chartered Accountants.

C. Hewetson Nelson, Esq., President of the Society of Incorporated Accountants and Auditors.

W. T. Walton, Esq., West Hartlepool.

Wm. McLintock, Esq., Glasgow.

Mineral Rights.

43.—(1) Where the amount payable to any person as rent in respect of the right to work minerals or of any mineral wayleaves (in cases where the right to work the

minerals and the mineral wayleaves are not part of the assets of any trade or business) varies according to the price of the minerals, and the amount so payable in respect of any working year ending on any date after the commencement of the present war (in this section referred to as the accounting year) exceeds the pre-war standard of that rent, there shall be paid as an addition to any mineral rights duty payable or paid, either directly or by deduction, by reference to the amount of the rent paid in that working year, by that person (in this section referred to as the person liable) an amount equal to fifty per cent. of that excess.

(2) The pre-war standard of rent shall, for the purposes of this section, be taken to be the average of any two of the three last pre-war rent values, to be selected by the taxpayer, and in cases where the minerals have not been worked or the wayleaves have not been let throughout the three years by reference to which the three last pre-war rent values are to be calculated, or for any other reason there are no proper data for ascertaining the pre-war rent values, shall be taken to be such amount as may be fixed by the Commissioners of Inland Revenue, having regard to the data afforded by the working and price of minerals in like circumstances, subject nevertheless to the same appeal as that to which the assessment of duty by the Commissioners is subject under Part I of the Finance (1909-10) Act, 1910.

The pre-war rent value shall, as respects each of the three years immediately preceding the first accounting year, be taken to be the sum to which the rent for the accounting year would amount if the rent, so far as variable according to price, were based on the average prices governing the payment of the rent in that year.

(3) Any amount payable in any accounting year by the lessee of minerals or wayleaves to a superior lessor as rent in respect of the minerals or wayleaves shall be treated as a deduction from the amount payable to the

lessee as rent for that year, and in computing the pre-war rent values a corresponding deduction shall be made on account of any such rent.

(4) Any increment value duty payable annually under Section 22 of the Finance (1909-10) Act, 1910, shall, when paid, be treated as a deduction from the rent payable to any person in the year in which the duty is paid, and a corresponding deduction shall be made in computing the pre-war standard with which the rent for that year is to be compared.

(5) Any duty payable under this section shall be assessed by the Commissioners of Inland Revenue on the person liable, subject to the same appeal as that to which an assessment of duty by the Commissioners under Part I of the Finance (1909-10) Act, 1910, is subject, and shall be recoverable as a debt due to His Majesty from that person.

(6) Subsection (3) of Section 20 of the Finance (1909-10) Act, 1910, shall extend so as to authorise particulars to be required of any lease of minerals or wayleaves and as to the sums paid or payable thereunder, and of such other particulars as to the minerals or wayleaves as the Commissioners may require for the purpose of this section.

(7) Expressions to which a special meaning is attached by Part I of the Finance (1909-10) Act, 1910, shall have the same meaning in this section.

The duty on mineral rights is not collectible separately, but is added to the Mineral Rights Duty.

Appeals are to be made as with Mineral Rights Duty and the Finance (1909-10) Act, 1910, prescribes that appeal as being to a panel of referees composed of persons experienced in valuation of land or minerals.

See pp. 140, 165.

Returns, &c.

44.—(1) The Commissioners of Inland Revenue may, for the purposes of this Part of this Act, require any person

engaged in any trade or business to which this Part of this Act applies, or who was so engaged during any accounting period or pre-war trade year, to furnish them within two months after the requirement for the return is made, with returns of the profits of the trade or business during the accounting period or pre-war trade years and such other particulars in connection with the trade or business as the Commissioners may require.

(2) It shall be the duty of every person chargeable to excess profits duty under this Part of this Act to give notice that he is chargeable to the Commissioners of Inland Revenue before the thirty-first day of January nineteen hundred and sixteen, and it shall be the duty of the liquidator of every company which is being wound up at the time of the commencement of this Act or is wound up after the commencement of this Act, and is chargeable to excess profits duty, to give notice of the fact to the Commissioners of Inland Revenue.

If any person fails to furnish a proper return in accordance with this section or to comply with any requirement of the Commissioners under this section, or to give any notice required by this section, he shall be liable on summary conviction to a fine not exceeding one hundred pounds and to a further fine not exceeding ten pounds a day for every day during which the offence continues after conviction therefor.

(3) A person shall not, for the purpose of avoiding the payment of excess profits duty, enter into any fictitious or artificial transaction or carry out any fictitious or artificial operation, and if he has entered into any such transaction or carried out any such operation before the commencement of this Act shall inform the Commissioners of Inland Revenue of the nature of the transaction or operation.

If any person acts in contravention of, or fails to comply with, this provision, he shall be liable on summary conviction to a fine not exceeding one hundred pounds.

The following notice by the Board of Inland Revenue has appeared in *The London Gazette* :—

“ That under the provisions of the Finance (No. 2) Act, 1915, it is incumbent upon every person chargeable with Excess Profits Duty in respect of the excess, over the statutory pre-war standard of profits, of the profits arising from any trade or business to which the duty applies in an accounting period which ended after the fourth day of August 1914 and before the first day of July 1915, to give notice thereof to the Commissioners of Inland Revenue before the thirty-first day of January 1916.

“ Every person, therefore, who has not already given such notice should communicate in writing before the date named with the Commissioners of Inland Revenue, either at their head office, Somerset House, London, W.C., or at the address of the Surveyor of Taxes for the district in which he resides or carries on business.”

Appeals, &c.

45.—(1) The excess profits duty shall be assessed by the Commissioners of Inland Revenue, and shall be payable at any time, not being less than two months, after it is assessed.

The Commissioners may, in any case where they think fit, allow the duty to be paid in instalments of such amount payable at such times as the Commissioners direct.

(2) The duty may be assessed on any person for the time being owning or carrying on the trade or business or acting as agent for that person in carrying on the trade or business, or, where a trade or business has ceased, on the person who owned or carried on the trade or business or acted as agent in carrying on the trade

or business immediately before the time at which the trade or business ceased, and where there has been a change of ownership of the trade or business, the Commissioners of Inland Revenue may, if they think fit, take the accounting period as the period ending on the date on which the ownership has so changed and assess the duty on the person who owned or carried on the trade or business or acted as agent for the person carrying on the trade or business at that date.

(3) The amount of duty payable shall be recoverable as a debt due to His Majesty from the person on whom it is assessed.

Any such amount shall if it is less than fifty pounds be recoverable also summarily as a civil debt.

(4) Where a company is wound up after the commencement of this Act, and before the first day of July nineteen hundred and sixteen, and the company would be chargeable with excess profits duty if the provisions of this Act were continued and extended to accounting periods ending before the first day of July nineteen hundred and sixteen, it shall be the duty of the liquidator of the company to give notice to the Commissioners of Inland Revenue, and to set aside such sum out of the assets of the company as appears to the Commissioners of Inland Revenue to be sufficient to provide for any such excess profits duty as may become chargeable.

(5) Any person who is dissatisfied with the amount of any assessment made upon him by the Commissioners of Inland Revenue under this Part of this Act may (except in cases where a special right of appeal is given under this Part of this Act) appeal to the General Commissioners for the division in which he is assessed, or to the Special Commissioners, and those Commissioners shall have power on any appeal, if they think fit, to summon witnesses and examine them upon oath.

The power under Sections 21 and 22 of the Income Tax Act, 1853, to require an appeal in Ireland to the Special

Commissioners to be reheard by the County Court Judge, or Chairman of Quarter Sessions, or Recorder, shall apply to an appeal in Ireland under this provision.

Section 59 of the Taxes Management Act, 1880 (which relates to the statement of a case on a point of law), shall apply with the necessary modifications in the case of any appeal to the General or Special Commissioners under this section, or of the rehearing of any such appeal in Ireland, and in the case of a reference to the Board of Referees under this Part of this Act, as it applies in the case of appeals to the General or Special Commissioners under the Income Tax Acts.

(6) The duty assessed by the Commissioners of Inland Revenue shall be payable notwithstanding any appeal under this section except in cases where the Commissioners of Inland Revenue direct to the contrary, but the Commissioners shall make such repayments, if any, as are necessary to give effect to any decision on appeal as soon as possible after such decision has been given.

(7) The Commissioners of Inland Revenue may make regulations with respect to the assessment and collection of the excess profits duty and the hearing of appeals under this section, and may by those regulations apply and adapt any enactments relating to the assessment and collection of income-tax, or the hearing of appeals as to income-tax by the General or Special Commissioners which do not otherwise apply.

(8) All Commissioners and other persons employed for any purpose in connection with the assessment or collection of excess profits duty shall be subject to the same obligations as to secrecy with respect to excess profits duty as those persons are subject to with respect to income-tax, and any oath taken by any such person as to secrecy with respect to income-tax shall be deemed to extend also to secrecy with respect to excess profits duty.

Change of Ownership.

The Excess Profits Duty is assessable on the *present* owner of the business, but if the business has ceased *since the commencement of war*, the owner at the time of cessation is chargeable. When there has been a change of ownership since 4th August 1914 the Board *may* take the war profits *period* as that ending on the date of change, and assess the predecessor. If e.g. a business was sold on 30th September 1914 and the trading year was to 31st December annually, the Board could adopt the former date as the end of the war-profits period. Assume the following profits apply :—

Year to Dec. 31st 1911	..	..	..	..	£
" " " 1912	..	..	..	..	4,000
" " " 1913	..	..	..	..	5,000
9 Months to Sept. 30th, 1914	..	..	..	..	6,000
					12,000

The pre-war standard would be the average of 1912 and 1913, i.e. £5,500, but Part 2 of the Fourth Schedule provides that when the war profits period is less than a year, the pre-war standard must be proportionately reduced, and a similar restriction applies to the exemption of £200. The assessment would, therefore, be as follows :—

War profit	..	..	..	..	..	£
Less $\frac{3}{4}$ of £200 exemption	..	..	..	..	..	12,000
						150
						11,850
Pre-war standard ($\frac{3}{4}$ of £5,500)	..	..	..	..	..	4,125
						50% 7,725
						£3,862 10s.

Appeals.

It should be noted that, although the Board of Inland Revenue makes the assessments to Excess Profits Duty, a right of appeal attaches to the local or Special Commissioners, and, *unless the Board*

directs, the duty must be paid provisionally, notwithstanding the appeal pending.

Part II of this Act shall be construed together with the Income Tax Acts, 1842 to 1853, and any other enactments relating to income-tax, and those enactments and Part II of this Act are in this Act referred to as the Income Tax Acts.

In this and in any other Act passed after the commencement of this Act relating to income-tax unless the context otherwise requires—

the expression “General Commissioners” means the Commissioners for the general purposes of the Acts relating to income-tax, and

the expression “Special Commissioners” means the Commissioners for the special purposes of the Acts relating to income-tax.

(2) The Acts mentioned in the Fifth Schedule to this Act are hereby repealed to the extent specified in the third column of that Schedule.

(3) This Act may be cited as the Finance (No. 2) Act, 1915.

FIFTH SCHEDULE.

ENACTMENTS REPEALED.

Session and Chapter	Short Title	Extent of Repea
5 & 6 Vict. c. 35 ..	The Income Tax Act, 1842	Section one hundred and eight
43 & 44 Vict. c. 24	The Spirits Act, 1880 ..	Table B. in the Second Schedule
7 Edw. 7, c. 13 ..	The Finance Act, 1907	Subsection (4) of section nineteen
2 & 3 Geo 5, c. 8	The Finance Act, 1912..	Section two

Finance Act, 1916.

This Act was passed on 19th July 1916, and its provisions as regards Income Tax, Super Tax, and Excess Profits Duty are as follows :—

Rates in the £.

24.—(1) Income-tax for the year beginning on the sixth day of April nineteen hundred and sixteen shall be charged at the rate of five shillings, and super-tax shall be charged, levied, and paid for that year at the same rates as those charged for the year beginning on the sixth day of April nineteen hundred and fifteen.

(2) All such enactments relating to income-tax, including super-tax, as were in force with respect to the duties of income-tax granted for the year beginning on the sixth day of April nineteen hundred and fifteen shall (with the exception of Section 20 of the Finance (No. 2) Act, 1915) have full force and effect with respect to any duties of income-tax hereby granted.

(3) The annual value of any property which has been adopted for the purpose either of income-tax under Schedules A and B in the Income Tax Acts, 1853, or of inhabited house duty, for the year ending on the fifth day of April nineteen hundred and sixteen, shall be taken as the annual value of such property for the same purpose for the next subsequent year ; provided that this subsection—

- (a) so far as respects the duty on inhabited houses in Scotland, shall be construed with the substitution of the twenty-fourth day of May for the fifth day of April ; and
- (b) shall not apply to the metropolis as defined by the Valuation (Metropolis) Act, 1869.

This section is similar to those at pp. 21 and 36, which fixed the 1915-16 rates in the £. The basic rate for 1916-17 is 5s. in the £, and the graduations for unearned income, earned income, and military pay are provided for in Sections 24, 25, and 30, and are as follows :—

Earned Income.

			s	d
Not exceeding £500			2	3
Exceeding £500 not exceeding £1,000 ..			2	6
" 1,000 " 1,500 ..			3	0
" 1,500 " 2,000 ..			3	8
" 2,000 " 2,500 ..			4	4
" 2,500			5	0

Unearned Income.

			s	d
Not exceeding £500			3	0
Exceeding £500 not exceeding £1,000 ..			3	6
" 1,000 " 1,500 ..			4	0
" 1,500 " 2,000 ..			4	6
" 2,000			5	0

Military and Naval Pay.

			s	d
Not exceeding £300 <i>total income</i> ..			0	9
Exceeding £300 not exceeding £500 ..			1	3
" 500 " 1,000 ..			1	9
" 1,000 " 1,500 ..			2	3
" 1,500 " 2,000 ..			2	9
" 2,000 " 2,500 ..			3	3
" 2,500			3	6

It should be noted with the last list that the relief only applies to the pay, but, with total incomes not exceeding £300, the abatement and exemption limits are £160 for the pay.

Super-tax, it will be observed, remains at the rates operative in 1915-16 (see p. 53).

25.—The following subsection shall be substituted for Subsection (1) of Section 19 of the Finance Act, 1907 (which provides for the reduction of the income-tax payable in respect of earned income), in lieu of that substituted by Section 4 of the Finance Act, 1914, namely:—

“(1) Any individual who claims and proves in manner provided by this section that his total income from all sources does not exceed two thousand five hundred pounds, and that any part of that income is earned income shall be entitled, subject to the provisions of this section, to such relief from income-tax as will reduce the amount payable on the earned income to the amount which would be payable if the tax were charged on that income at the rate of—

2s. 3d. if the total income does not exceed five hundred pounds;

2s. 6d. if the total income exceeds five hundred pounds and does not exceed one thousand pounds;

- 3s. 0d. if the total income exceeds one thousand pounds and does not exceed one thousand five hundred pounds;
- 3s. 8d. if the total income exceeds one thousand five hundred pounds and does not exceed two thousand pounds;
- 4s. 4d. if the total income exceeds two thousand pounds and does not exceed two thousand five hundred pounds."

26.—(1) If any individual who has been assessed or charged to income-tax or has paid income-tax either by way of deduction or otherwise claims and proves in manner prescribed by the Income Tax Acts that his total income from all sources does not exceed two thousand pounds, he shall be entitled to the repayment of such a part of the income-tax paid by him as will reduce the amount of income-tax on his unearned income to the amount which would have been paid if the tax were charged on that income at the rate of—

- 3s. 0d. if the total income does not exceed five hundred pounds;
- 3s. 6d. if the total income exceeds five hundred pounds and does not exceed one thousand pounds;
- 4s. 0d. if the total income exceeds one thousand pounds and does not exceed one thousand five hundred pounds;
- 4s. 6d. if the total income exceeds one thousand five hundred pounds and does not exceed two thousand pounds.

(2) The relief given under this section shall be in addition to and not in derogation of any exemption, or other relief or abatement, under the Income Tax Acts, but where any such exemption, relief, or abatement is to be determined by reference to the amount of the income-tax on any sum, the amount of the tax shall be calculated at the reduced rate.

(3) All the provisions of the Income Tax Acts which relate to claims for exemption, relief, or abatement, or the proof to be given with respect to those claims, shall apply to claims for relief under this section and the proof to be given with respect to those claims.

(4) An individual shall not be entitled to relief under this section in respect of any income the tax on which he is entitled to charge against any other person, or to deduct, retain, or satisfy out of any payment which he is liable to make to any other person.

(5) Section 6 of the Finance Act, 1914, shall cease to have effect.

These sections give the earned and unearned rates as shown in the table at p. 115.

American Securities.

27.—(1) In addition to any other income-tax or super-tax charged under this or any other Act, there shall, subject to the provisions of this section, be charged, levied, and paid for the year beginning on the sixth day of April nineteen hundred and sixteen, in respect of any part of the income of any person to which this section applies, an additional duty of income-tax at the rate of two shillings for every pound of that part of the income.

The income to which this section applies is the income derived from securities which are for the time being included in the Treasury special list as defined by this section, while those securities are so included ; and the income shall, for the purposes of this section, be deemed to be derived at the time when the interest or dividends payable in respect of the securities become payable.

(2) The additional duty under this section shall not be charged on any income derived before the twenty-ninth day of July nineteen hundred and sixteen.

(3) A person shall be entitled to relief from the additional duty imposed by this section—

- (a) in respect of income derived between the date of the publication of the Treasury special list and a date twenty-eight days thereafter if the securities are during that period offered to the Treasury and ultimately become at the absolute disposal of the Treasury ; and
- (b) in respect of income derived from any securities included in the Treasury special list after the securities have been placed at the absolute disposal of the Treasury ; and
- (c) in respect of income derived from any such securities after a person has placed the securities conditionally at the disposal of the Treasury, if the securities ultimately become at the absolute disposal of the Treasury without unreasonable delay on the part of that person ; and
- (d) in respect of income derived from any such securities whether they ultimately become at the absolute disposal of the Treasury or not, if it is shown to the satisfaction of the Treasury that any delay in placing or failure to place those securities at the disposal of the Treasury has arisen from circumstances beyond the control of the holders of the securities ; and

- (e) in respect of income derived from any such securities held, in any country outside the United Kingdom, by persons who are not domiciled in the United Kingdom, or by trustees who are prevented by the laws of such other country, or by the terms of their trust from placing the securities at the disposal of the Treasury, and are not entitled to the benefit of any indemnity conferred by Act of Parliament in respect of the contravention of those terms, if the securities were so held before the twenty-ninth day of May nineteen hundred and sixteen; or where such securities are under the jurisdiction of a court in such other country and it would be contrary to the laws of such other country to place such securities at the disposal of the Treasury; and
- (f) in respect of income derived from any such securities which are deposited with persons outside the United Kingdom as a security for a loan from those persons, or have otherwise been made security for a loan from persons outside the United Kingdom, if they were so deposited or made security before the twenty-ninth day of May nineteen hundred and sixteen, or after that date with the approval of the Treasury, and if the Treasury are satisfied that the securities cannot be released without impairing the security for the loan; and
- (g) in respect of income derived from any such securities which are proved to the Special Commissioners to be held by any company or persons concerned in trade or business in any country outside the United Kingdom as a condition (imposed in that country) of carrying on that trade or business.

The provisions of this subsection shall apply to an offer of securities for deposit in the same manner as they apply to an offer of securities for sale, and securities when accepted for deposit shall, while so deposited, for the purposes of this subsection, be deemed to be at the absolute disposal of the Treasury.

(4) The power under the Income Tax Acts to require a person to make returns for the purposes of those Acts shall include power to require him to make such returns as appear to the Commissioners of Inland Revenue to be necessary for the purpose of ascertaining whether any of the income of that person (whether or not income-tax thereon is chargeable by deduction) is income to which this section applies, including such particulars as to that income as the Commissioners may require, and those Acts, including the provisions imposing penalties, shall apply accordingly.

(5) Where any income to which this section applies is derived from securities which are held on trust by more than one trustee the securities may be placed at the disposal of the Treasury if, where there are two trustees, one trustee and the persons entitled to the income of the securities, and, where there are more than two trustees, one-half or more of the number of the trustees and the persons entitled to the income of the securities, are willing that the securities should be so placed at the disposal of the Treasury; and any action taken by such trustees or beneficiaries for the purpose of placing any such securities at the disposal of the Treasury shall, notwithstanding anything in the terms of the trust or any rule of law to the contrary, be as valid and effectual in all respects as though all the trustees had consented thereto and had joined therein.

(6) A person shall not be entitled to any exemption, abatement, or relief under the Income Tax Acts (other than relief depending solely on residence or domicile) in respect of the additional income-tax imposed by this section, but in all other respects the provisions of the Income Tax Acts relating to persons who are to be chargeable with duty, assessments, and appeals against those assessments, and to the collection and recovery of duty, and to cases to be stated for the opinion of the High Court shall, so far as they are applicable, apply to the charge, assessment, collection, and recovery of duty under this section:

Provided that the Treasury may give directions that the additional duty imposed by this section shall, instead of being charged by deduction, be charged up to the same amount by direct assessment for the period, and in the cases mentioned in those directions, and where any such directions are given, the Income Tax Acts shall have effect accordingly.

(7) In this section—

The expression "securities" include stocks, shares, and other securities; and

The expression "the Treasury special list" means any list published by the Treasury in the Gazette, and for the time being in force, of securities which the Treasury are willing to purchase in connection with any arrangements for the regulation and maintenance of the foreign exchanges.

This extensive section dealing with those American securities required by the Government includes "stocks, shares, and other securities"

named in a Treasury list. The additional tax is 2s. in the £. Relief from the tax is given in the following cases :—

(1) Income derived between the date of publication of the Treasury list and 28 days thereafter, if the securities are offered to the Treasury during that period and become, ultimately, at the absolute disposal of the Treasury.

(2) Income derived after the securities have been placed at the absolute disposal of the Treasury.

(3) Income derived after the securities have been placed conditionally at the Treasury's disposal if the securities ultimately become at the ultimate disposal of the Treasury without unreasonable delay on the holder's part.

(4) Income derived from securities, whether they become at the Treasury's absolute disposal or not, if any delay in placing them at the Treasury's disposal was from circumstances beyond the control of the holder.

(5) Income derived from securities held in any country outside the United Kingdom by persons not domiciled in the United Kingdom or by trustees who are prevented by the laws of such country or by the terms of their trust from placing the securities at the Treasury's disposal, if the securities were so held before 29th May 1916 and the said persons are not entitled to indemnity under the Act.

(6) Income derived from securities, deposited with persons outside the United Kingdom as security for a loan if so deposited or made security before 29th May 1916, and if the Treasury are

satisfied that the release of the securities would impair the security for the loan.

(7) Income derived from securities held by a person or company trading outside the United Kingdom as a condition in that country of carrying on that trade or business.

In the case of trusts the securities may be placed at the Treasury's disposal if, where there are two trustees, one and the beneficiaries agree, and where there are more than two, one-half or more and the beneficiaries are willing. The Act creates an indemnity to trustees against what, otherwise, would be breaches of covenant.

The additional tax is not subject to abatement or relief.

The extra tax of 2s. on those American securities which are needed by the Government is to be recovered at the source, and the following official statement has been issued by the Treasury :—

1.—The special tax will be charged on the income derived from all securities included in the Treasury special lists which have been published or will from time to time be published in the *London Gazette*. Generally speaking, the incidence of the special tax will follow that of the ordinary income-tax, except that there will be no exemptions or abatements other than those that may be provided for in the Finance Act now before Parliament.

2.—The special tax will be deducted at the source in the case of securities appearing in Treasury special lists published on or before August 3 on all income becoming payable on or after September 1, and in the case of securities appearing in later lists upon all income becoming payable on or after the 28th day following the publication of the list in which they are included.

3.—The special tax on all income becoming payable on or after July 1 or on or after the day following the date of the publication of the Treasury special lists in which the security appears (whichever may be the later) will, where it has not been deducted at the source under the preceding paragraph, be assessed in the hands of the recipient of such income.

4.—For the purposes of paragraphs (2) and (3) interest coupons are regarded as becoming payable on the due date of the coupon. When the coupon is negotiated in the United Kingdom before the due date, the liability to deduction and to assessment will, therefore, depend on the due date of the coupon and not on the date of negotiation.

5.—When securities liable to the special tax are offered for sale to or deposit with the Treasury within 28 days after July 1 or the date of publication of the special list in which they are included (whichever may be later) and the offer is followed within a reasonable time by actual sale or deposit, the tax will not be charged upon any income received up to the date of sale or deposit, and any tax which may in the meantime have been deducted upon such income will be repaid.

War Relief.

28.—(1) Section 13 of the Finance Act, 1914 (Session 2) (which gives relief in respect of diminution of income due to war), shall apply to income-tax (including super-tax) for the current income-tax year, but with the substitution, as regards postponed super-tax, of the first day of January nineteen hundred and eighteen for the first day of January nineteen hundred and sixteen as the date on which the postponed super-tax is to become payable.

(2) Any payment of super-tax for the year beginning the sixth day of April nineteen hundred and fifteen or for the year beginning the sixth day of April nineteen hundred and fourteen which has been postponed under Section 13 of the Finance Act, 1914 (Session 2), as continued by Section 20 of the Finance Act, 1915, or which has been postponed and further postponed under those sections, may be further postponed until the first day of January nineteen hundred and eighteen, if the individual from whom the payment is due proves to the satisfaction of the Special Commissioners that his actual income from all sources for the current income-tax year is or will be less than two-thirds of the income on which he was liable to be charged to super-tax for the year beginning the sixth day of April nineteen hundred and fifteen as respects payment of super-tax for that year, and for the year beginning the sixth day of April nineteen hundred and fourteen as respects payment of super-tax for that year.

This continues for 1916-17 the relief given at p. 32.

Super-Tax.

The new Act provides for 1916-17 a similar postponement of payment of super-tax as applied to 1914-15 and 1915-16, the date on which the tax is to be payable being 1st January 1918. The postponements for 1914-15 and 1915-16—which attached when the *actual* income of the year of assessment was less than 2-3rds of the assessed income—are extended to 1st January 1918 if the *actual* income of 1916-17 is less than 2-3rds of the statutory super-tax income of 1914-15 and 1915-16 respectively.

Reduced Incomes.

29.—If any individual who has been assessed or charged to income-tax for the current income-tax year claims and proves in manner provided by the Income Tax Acts that his actual income from all sources for the year of assessment is less by more than ten per cent. than the income on which he has been so assessed and charged, he shall be entitled to repayment of such part of any income-tax paid by him, either by way of deduction or otherwise, as is equal to the difference between the amount of the tax so paid and the amount which would have been so paid if he had been assessed or charged on his actual income for the year of assessment.

This section is a substitution of the unwieldy and complicated provision for 1915-16 at pp. 37 and 39.

An important provision is that of Section 29, which enacts when an *individual*—i.e. exclusive of e.g. a company—has been charged for 1916-17 and proves that his *actual* income from *all sources* for that year is more than 10 per cent. less than *the assessments* he is entitled to repayment of tax on the difference between (a) *the assessments*, including income from which tax is deducted, and (b) the *actual* income, so as to give a resultant liability of tax on the *actual* income. This covers, therefore, all income received by an individual, and thus

dispenses with the average. Dividends, rents, &c., are not affected, as their bases of assessment are the current year.

Military and Naval Persons.

30.—(1) Where any person who, during the current income-tax year, has served or is serving as a member of any of the naval or military forces of the Crown, or in service of a naval or military character in connection with the present war for which payment is made out of money provided by Parliament, or in any work abroad of the British Red Cross Society or the St. John Ambulance Association, or any other body with similar objects, proves that he is assessed or charged to income-tax, or has paid income-tax either by way of deduction or otherwise on his pay in connection with any such service, he shall be entitled to claim such relief from income-tax as will reduce the amount of income-tax on that pay to the amount which would have been payable if the tax were charged on that pay at the rate of—

- 9d. if his total income from all sources does not exceed three hundred pounds ;
- 1s. 3d. if his total income exceeds three hundred pounds and does not exceed five hundred pounds ;
- 1s. 9d. if his total income exceeds five hundred pounds and does not exceed one thousand pounds ;
- 2s. 3d. if his total income exceeds one thousand pounds and does not exceed one thousand five hundred pounds ;
- 2s. 9d. if his total income exceeds one thousand five hundred pounds and does not exceed two thousand pounds ;
- 3s. 3d. if his total income exceeds two thousand pounds and does not exceed two thousand five hundred pounds ;
- 3s. 6d. if his total income exceeds two thousand five hundred pounds.

(2) The relief given under this section shall be in addition to and not in derogation of any exemption or other relief or abatement under the Income Tax Acts and in cases where the total income does not exceed three hundred pounds shall not be subject to the reduction of exemption and abatements for which provision is made under the Finance (No. 2) Act, 1915 ; but relief in respect of earned income shall be given in respect of the pay by reference to the rates under this section ; and in calculating any earned income on which relief is to be given, any deduc-

tions from earned income made under Subsection (2) of Section 19 of the Finance Act, 1907, shall be made primarily from the pay.

(3) All the provisions of the Income Tax Acts which relate to claims for exemption or relief, or the proof to be given with respect to those claims, shall apply to claims for relief under this section and the proof to be given with respect to those claims.

31.—(1) For the purpose of any relief under the Income Tax Acts given, whether before or after the passing of this Act, to persons serving as members of the naval or military forces of the Crown a person shall not be deemed to have served as a member of the naval or military forces of the Crown unless he has served—

(a) on the active list of the navy ; or

(b) in the army, either with the colours, or as an officer on full pay or at a rate of pay which appears to the Income Tax Commissioners concerned, after consultation with the Army Council, to be equivalent to full pay, and either out of the British Islands or for at least one month continuously in the British Islands.

(2) For the purpose of the relief given to persons serving in certain capacities under the second paragraph of Subsection (1) of Section 13 of the Finance Act, 1914 (Session 2), or Section 25 of the Finance (No. 2) Act, 1915, relief shall not be given unless there has been some such service during the year in respect of which the relief is claimed.

Section 30 gives the rates shown at p. 115, and the 1916-17 adaptation of the 1915-16 rates at p. 54.

The relief is given to any person serving in a naval or military capacity in connection with the present war who is paid out of Parliamentary moneys, and to any member of the Red Cross, St. John Ambulance, or kindred institution serving abroad during 1916-17. "Service" has a statutory and retrospective definition, and it covers (a) being on the active list of the navy or (b) with the colours in the army, or as an officer on full pay or an equivalent to full pay, *and* either out of the British Isles or at least one month continuously here.

See p. 154.

Incomes Near to Limits.

32.—(1) Where owing to the fact that the total income of any person exceeds a certain limit—

- (a) he is liable to pay income-tax or super-tax at a higher rate ; or
- (b) he ceases to be entitled to any exemption or abatement ; or
- (c) he becomes entitled to a reduced exemption or abatement,

the amount of income-tax or super-tax payable by that person shall, where necessary, be reduced so as not to exceed the sum of the following amounts :—

- (i) the amount which would have been payable if his income had reached, but had not exceeded, that limit ; and
- (ii) the amount by which his total income exceeds that limit.

(2) Where income-tax is charged at different rates on different parts of the total income, the deduction from total income required in calculating the maximum duty payable under this section for the purpose of bringing the total income down to the limit shall be made from that part of the total income which is taxed at the lowest rate.

(3) All the provisions of the Income Tax Acts which relate to claims for exemption or abatement or the proof to be given with respect to those claims shall apply to claims for relief under this section and the proof to be given with respect to those claims.

An outstanding feature of the Act is Section 32, which mitigates the inequity existing when a total income is slightly above a limit for earned rate, abatement, &c. In short, the difficulty is met by a provision that the tax shall not exceed that applicable to a total income equalling but not exceeding the next lowest limit *plus* the excess of the income over that limit ; thus an income of £1,002 would carry the earned rate of 2s. 6d. instead of 3s., and the tax at 2s. 6d. on £1,000 would be increased by £2. This principle also applies to super-tax and abatements.

Children's Allowance.

33.—Section 168 of the Finance (1909-10) Act, 1910 (which gives to individuals whose total income does not exceed five hundred pounds relief from income-tax in respect of children), shall, as amended by any subsequent Act, have effect as if seven hundred pounds were substituted, as the limit of income, for five hundred pounds.

This section is self explanatory in raising the limit from £500 to £700.

Increased Rates.

34.—It is hereby declared that paragraph (b) of Subsection (1) of Section 20 of the Finance (No. 2) Act, 1915, does not affect the operation of Section 37 of that Act as respects the application of amendments made by that Act for the current income-tax year, and that that paragraph is accordingly to be construed as if the words "if this section had not passed" were substituted for the words "if this Act had not passed."

See p. 36.

Income Tax Stamps.

35.—If the Commissioners of Inland Revenue make arrangements for the collection of income-tax by means of stamps in any cases, they may prepare and issue any stamps required for the purpose, and the provisions (including penal provisions) of the Stamp Duties Management Act, 1891, as amended by any subsequent Act, and Section 65 of the Post Office Act, 1908, shall apply to any such stamps.

This is to authorise the issue of stamps for the purpose of collection of tax from manual workers by means of stamps.

Insurance Premiums.

36.—(1) The relief given under Section 54 of the Income Tax Act, 1853, as amended by any subsequent enactment, shall not, as regards insurances or contracts for deferred annuities made after the twenty-second day of June nineteen hundred and sixteen, be given at a greater rate than that of three shillings in the pound; and shall not, as regards any insurance or contract for a deferred annuity, be given, notwithstanding anything in paragraph (b) of Subsection (2) of Section 66 of the Finance (1909-10) Act, 1910, for the purposes of super-tax.

(2) The said relief shall not, as regards insurances or contracts for deferred annuities made after the twenty-second day of June nineteen hundred and sixteen—

- (a) be given except in respect of premiums or other payments payable on policies for securing a capital sum on death, whether in conjunction with any other benefit or not; or
- (b) be given in respect of premiums or payments payable during the period of deferment in respect of a policy of deferred assurance :

Provided that nothing in this subsection shall affect premiums or payments payable on policies or contracts made in connection with any superannuation or *bona fide* pension scheme for the benefit of the employees of any employer or persons engaged in any particular profession, vocation, trade, or business, or on any policy taken out by a teacher in a secondary school pending the establishment of a superannuation or pension scheme for those teachers.

The amended provision has now reached definite shape after considerable reconstruction. Premiums payable in respect of policies taken out on or before 22nd June 1916 are not within the altered rules, as the Act is not retrospective, but, with policies effected after that date, a *maximum* allowance of 3s. in the £ is fixed and no allowance is permitted for super-tax, so that the relief from taxation to the extent of about 8s. 6d. in the £ which has been the subject of many insurance advertisements has been avoided. The limitation to 3s. thus means that the graduation in the rates of allowance only extends to incomes not exceeding £1,500 when part is earned and £500 when all is unearned, so that all incomes exceeding those limits receive the same allowance.

The relief in respect of policies taken out after 22nd June 1916 is, by Section 36 (2), only to be given in respect of premiums payable on policies for securing a capital sum on death even though

there is also other benefit, and it is not, in regard to policies of deferred insurance, to apply to premiums payable during the period of deferment, but these qualifications are not to attach to the following premiums :—

(1) On policies in connection with any superannuation or *bona fide* pension scheme of an employer.

(2) On policies taken out by a teacher in a secondary school pending the establishment of a superannuation or pension scheme.

Subsection 2 provides for the “said relief” being restricted *inter alia* to policies with a death risk, and no reference is made to the 7 per cent. limit, but as the *said* relief refers to Subsection 1, in which it is provided that the “relief given under “Section 54 of the Income Tax Act, 1853, as “amended by any subsequent enactment” shall be restricted to the maximum of 3s. in the £, the 7 per cent. limit is within the qualification of amendment, as it was, of course, included in a “subsequent enactment,” so that, even with policies made after 22nd June 1916, the 7 per cent. limit still attaches in a strict sense.

37.—(1) Section 54 of the Income Tax Act, 1853, as amended by any subsequent enactment, shall apply to all war insurance premiums, whether payable annually or not.

(2) War insurance premiums shall not be taken into account in calculating the limit of one-sixth of the profits and gains under the proviso to the said Section 64 or the limits of seven per cent. or one hundred pounds under Subsection (1) of Section 17 of the Finance Act, 1915.

(3) In this section the expression “war insurance premium” means any additional premium or other sum paid in order to extend an existing life insurance policy to risks arising from war or war service abroad, and any part of any premium or other sum paid in respect of a

life insurance policy covering those risks, or either of them, which appears to the Commissioners to whom the claim for relief is made to be attributable to those risks, or either of them.

War insurance premiums are allowed whether payable annually or not, and the statutory definition is "any additional premium *or other sum* paid in order to extend an existing "life insurance policy to risks arising from war or "war service abroad." Moreover, these premiums are to be ignored in calculating the 1-6th of total income for the maximum allowance, and similarly the 7 per cent. limitation is exclusive of war premiums, as is also the £100 limit in the case of deferred annuities

Woodlands.

38.—(1) Any person occupying woodlands who proves to the satisfaction of the Special Commissioners that those woodlands are managed by him on a commercial basis, and with a view to the realisation of profits, shall have the same right under Subsection (4) of Section 22 of the Finance (No. 2) Act, 1915, to elect to be charged under Schedule D as a person who proves those facts to the satisfaction of the General Commissioners, but an application to prove those facts in any year in respect of the same woodlands must be made either to the General or Special Commissioners, and not to both.

(2) Paragraph (a) of Subsection (4) of Section 22 of the Finance (No. 2) Act, 1915 (which provides that the election shall extend to all woodlands managed on the same estate), shall not apply to woodlands which are planted or replanted after the passing of this Act, if the person occupying those woodlands gives notice to the General or Special Commissioners within a year after the time when they are so planted or replanted that they are to be treated for the purpose of that paragraph as being woodlands on a separate estate.

(3) Section 23 of the Customs and Inland Revenue Act, 1890 (which gives relief to trading persons in case of loss), shall, where a person occupying woodlands has elected to be charged to income-tax in respect of those woodlands under Schedule D, apply to losses on those woodlands as it applies to losses in any trade.

See p. 50, where the special provision authorising assessment under Schedule D instead of Schedule B is printed. Section 38 now allows proof that the woods are managed on a commercial basis to be given to the Special Commissioners as well as to the General Commissioners—but not to both in one year.

Section 22 (4) (a) of the Finance (No. 2) Act, 1915, provided that when assessment is made under Schedule D, all woodlands on the same estate and managed on a commercial basis should be included, but Section 38 (2) now omits from this aggregation woodlands planted, or replanted, after 19th July 1916.

Subsection 3 extends Section 23 of the 1890 Act to woodlands charged under Schedule D. The 1890 Act provides that when a person shall sustain a loss on any trade, or on land occupied for purposes of husbandry only, repayment may be claimed, against income assessed, of tax on the amount of the loss. Assume, therefore, that the following profits are made from woodlands :—

Year to 31st December	1913	..	£	200
"	"	1914	..	300
"	"	1915	..	340
"	"	1916	..	loss £200

The 1916-17 assessment under Schedule D would be as follows :—

1913	..	..	£	200
1914	..	..		300
1915	..	..		340
				<hr/>
				3) 840
				<hr/>
				£280
				<hr/>

On the accounts to 31st December 1916 being made up, the 1890 Act would operate, on a claim

by the occupier of the woodlands, and tax on the amount of the loss (£200) would be repaid, instead of being allowed by falling into the averages of 1917-18, 1918-19, and 1919-20.

Controlled Concerns

39.—(1) Where in calculating for the purposes of Part II of the Munitions of War Act, 1915, the profits of a controlled establishment a deduction has been allowed under that Part of that Act or rules made thereunder in respect of exceptional depreciation or obsolescence of buildings, plant, or machinery, and the sums so deducted have not been deducted or allowed in computing the amount upon which income-tax has been paid in respect of those profits, there shall be allowed a repayment of income-tax equal to the amount of the income-tax at the rate at which that tax has been paid on the amount of the sums so deducted :

Provided that the repayment of income-tax under this section—

- (a) shall be made in respect of the income-tax year, which includes the end of the period of assessment in respect of which the said deductions have been allowed under the Munitions of War Act, 1915; and
- (b) shall be deemed to have effected a reduction of the income-tax assessment by the amount upon which income-tax has been so repaid.

(2) Any application for relief under this section shall be made to the Commissioners by whom the income-tax assessment has been made, and those Commissioners upon proof of the facts to their satisfaction shall certify to the Commissioners of Inland Revenue the sum repayable, and the Commissioners of Inland Revenue shall cause repayment to be made accordingly.

Section 39 is of considerable importance in its provision that when, under the Munitions Act, a deduction has been allowed for exceptional depreciation or obsolescence of buildings, plant, or machinery, and no deduction for this has been made for income-tax, repayment may be claimed so as to give the deduction. The repayment is to be made for the income-tax year, which includes

the end of the "period of assessment" under the Munitions Act in respect of which the deductions have been allowed.

Small Dividends.

40.—Section 95 of the Income Tax Act, 1842 (which relates to the manner of charging small dividends), shall apply to cases where the half-yearly payment on the annuity, dividend, or shares, amounts to fifty shillings and not more, as it applies to cases where that payment does not amount to fifty shillings.

This is merely a substitution, as a maximum, of £2 10s. for a sum not amounting to £2 10s. in respect of small public dividends paid without deduction of tax.

Exchequer Bonds.

41.—Section 3 of the War Loan (Supplemental Provisions) Act, 1915 (which relates to income-tax on stock inscribed in the Post Office register), shall apply as though references to interest on that stock included references to dividends on Exchequer Bonds issued through, and left in the custody of, the Post Office :

Provided that the said section as amended by this section shall not apply in any case where the total amount of stock and bonds held by any one person exceeds the nominal amount of two hundred pounds.

This section is repealed (*see* p. 162).

Dividends on Exchequer Bonds issued through and left in the custody of the Post Office were to be paid without deduction of tax, as with War Loan stock inscribed on the Post Office register, but tax was deductible when the total amount of stock or bonds held by one person exceeded the nominal amount of £200.

The 1916 Act provided that dividends on certain Exchequer Bonds should be paid without deduction of tax but the holders were assessable direct. The Treasury announced that the provision would apply to 5 per cent. Exchequer Bonds, 1919,

1920, and 1921, registered at the Banks of England and Ireland, and 5 per cent. Exchequer Bonds, 1920, left in the custody of the Post Office.

War Savings Certificates.

42.—The accumulated interest payable in respect of any war savings certificate issued by the Treasury through the Post Office under which the purchaser, by virtue of an immediate payment of fifteen shillings and sixpence, becomes entitled after five years to receive the sum of one pound, shall not be liable to income-tax so long as the amount of the certificates held by the purchaser does not exceed the amount which an individual is for the time being authorised to hold under regulations made by the Treasury.

The accumulated interest on War Savings Certificates is exempted so long as the individual does not hold more than 500 certificates.

Colonial Income Taxes.

43.—If any person who has paid, by deduction or otherwise, United Kingdom income-tax for the current income-tax year on any part of his income at a rate exceeding three shillings and sixpence proves to the satisfaction of the Special Commissioners that he has also paid any Colonial Income-tax in respect of the same part of his income, he shall be entitled to repayment of a part of the United Kingdom income-tax paid by him equal to the difference between the amount so paid and the amount he would have paid if the tax had been charged at the rate of three shillings and sixpence, or, if that difference exceeds the amount of tax on that part of his income at the rate of the Colonial income-tax, equal to that amount.

In this section the expression "United Kingdom income-tax" means income-tax charged under the Income Tax Acts; and the expression "Colonial income-tax" means income-tax charged under any law in force in any British possession or any tax so charged which appears to the Special Commissioners to correspond to United Kingdom income-tax.

The question of double taxation in regard to Colonial income assumed the form of a suggestion that Section 5 of the 1914 Act, which taxes *income* irrespective of *remittances*, should not apply to Colonial income. The object of the

section would be defeated if such a suggestion were adopted, as the old basis of remittances allowed considerable scope for evasion of income-tax. The Prime Minister of Australia supported the inequity of the present position, and agreed to the suggestions of a deputation which waited upon him, one of which was that the British income-tax should be reduced by the amount of the Colonial tax. It is assumed that Australia would allow a resident in the Commonwealth who receives income from the United Kingdom to deduct the British income-tax from the Commonwealth income-tax if the question of taxation of such income should come into prominence.

The provision for dealing with the question of double taxation in the case of Colonial sources of income has not been amended, and repayment is allowed up to rs. 6d. in the £. If the Colonial income-tax is less than rs. 6d. in the £, the relief extends to the full Colonial tax.

Free of Tax Government Securities.

44.—(1) Section 47 of the Finance (No. 2) Act, 1915, (which confers power on the Treasury to issue securities free of taxation in certain cases), shall, so far as income-tax (including super-tax) is concerned, have effect as though the reference to persons not domiciled in the United Kingdom were omitted therefrom.

(2) Where securities issued under Section 47 of the Finance (No. 2) Act, 1915, for the time being form part of the investments of the foreign life assurance fund of an assurance company, the income arising from those securities, if applied for the purposes of that fund or reinvested so as to form part of that fund, shall not be liable to income-tax.

(3) Where the Special Commissioners are satisfied that any income arising abroad from the investments of the foreign life assurance fund of an assurance company has been remitted to the United Kingdom and invested, as part of the investments of that fund, in any securities

issued under Section 47 of the Finance (No. 2) Act, 1915, that income shall not be liable to income-tax, and any income-tax paid thereon shall, if necessary, be repaid to the company.

(4) In this section the expressions "assurance company" and "foreign life assurance fund" have the same meaning as in the Finance Act, 1915.

Section 47 of the Finance (No. 2) Act, 1915, provides that the Treasury may issue securities in connection with the war, with a condition that neither the capital nor income shall be liable to taxation, present or future, so long as the securities are in the beneficial ownership of persons who are neither domiciled nor ordinarily resident in the United Kingdom. Section 44 thus leaves "residence" as the only controlling factor. *See* pp. 66, 153.

See pp. 26-29 as to Insurance Companies.

Excess Profits Duty.

Increase of Rate.

45.—(1) The Finance (No. 2) Act, 1915 (in this Part of this Act referred to as the principal Act), shall, so far as it relates to excess profits duty, apply, unless Parliament otherwise determines, to any accounting period ending on or after the first day of July nineteen hundred and fifteen and before the first day of August nineteen hundred and seventeen, as it applies to accounting periods ended after the fourth day of August nineteen hundred and fourteen and before the said first day of July.

(2) Section 38 of the principal Act shall, as respects excess profits arising in any accounting period beginning after the expiration of a year from the commencement of the first accounting period, have effect as if sixty per cent. of the excess were substituted as the rate of duty for fifty per cent. of the excess.

Where part of an accounting period is after and part before the date of the expiration of a year from the commencement of the first accounting period, the total excess profits and any deficiencies or losses arising in the accounting period shall be apportioned between the time up to and including, and the time after, that date in proportion to the length of those times respectively, and

the rate attributable to the time after and the time before and including that date shall respectively be sixty and fifty per cent. of the excess.

In the case of trades or businesses commencing after the fourth day of August nineteen hundred and fourteen, the rate of duty shall be sixty per cent. of the excess in respect of any accounting period ending after the fourth day of August nineteen hundred and fifteen.

In calculating any repayment or set off under Sub-section (3) of Section 38 of the principal Act any amount to be repaid or set off on account of a deficiency or loss arising in any period in respect of which duty would be payable at the rate of fifty per cent. of the excess, shall be calculated by reference to that rate of duty.

Any additional duty payable by virtue of this section in respect of a past accounting period may be assessed and recovered notwithstanding that duty has already been assessed in respect of that period.

(3) It shall be the duty of every person chargeable to excess profits duty under Part III of the principal Act as extended by this Act, if he has not previously given notice of his liability to be charged with excess profits duty in respect of any accounting period, to give notice to the Commissioners of Inland Revenue before the expiration of two months after the determination of any accounting period in respect of which he is chargeable, or if the accounting period terminated before the passing of this Act, within one month after the passing of this Act.

If any person fails to give the notice required by this provision he shall be liable on summary conviction to a fine not exceeding one hundred pounds, and to a further fine not exceeding ten pounds a day for every day during which the offence continues after conviction therefor.

The Excess Profits Duty is extended to all accounting periods ending on and after 1st July 1915 and before 1st August 1917. The rate is increased from 50 per cent. to 60 per cent. for every accounting period beginning after the expiration of a year from the commencement of the first accounting period. If the accounting period is part before and part after the expiration of the twelve months the 50 per cent. is to be applied to the period before the date and 60 per cent. after, while any

deficiencies on 50 per cent. periods will, when carried forward, be reduced so as to give at 60 per cent. what would ordinarily have been given at 50 per cent.

With a business commencing after 4th August 1914 the 60 per cent. rate applies to all accounting periods ending after 4th August 1915.

With e.g. a trading year ending at 31st December annually, the year 1914 would be chargeable at 50 per cent., and the year to 31st December 1915 at 60 per cent. If the first accounting period was nine months to 30th September 1914 and the next period was six months to 31st March 1915, one-half of the profits of the latter period would be taxed at 50 per cent., and the other half at 60 per cent. The apportionment is to proceed on a basis of division in accordance with length of period, so that with a six months' account showing a profit of £1,000, £500 is chargeable at 50 per cent. and £500 at 60 per cent., even though, say, £800 could be proved to have accrued in the first three months of the account.

Deficiencies and losses are to be treated on the same principle of division, thus, if there were a deficiency of, say, £1,050 (i.e. £900 + $\frac{3}{4}$ of £200 statutory allowance) in respect of the nine months to 30th September 1914, owing to the profits of that period being, say, £3,000, while the pre-war standard was £3,900 ($\frac{3}{4}$ of £5,200), the deficiency would be deducted from the first half of the profits of the six months to 31st March 1915. If the deficiency exceeded those profits, 50-60ths of the excess would be deducted from the next half of the profits.

Assume the following profits to apply :—

Year to 31st December 1911	..	..	..	..	£ 6,000
" " 1912	..	..	..	..	2,800
" " 1913	..	..	..	..	4,400
9 months to 30th Sept. 1914	..	..	..	..	3,000
6 " 31st March 1915	..	..	..	..	8,000

The liability would be as follows :—

9 months to 30th September 1914	..	..	..	£ 3,000
Less $\frac{3}{4}$ allowance	..	..	..	150
				<u>£2,850</u>

Less $\frac{3}{4}$ Pre-War Standard, 1911	..	£ 6,000
1913	..	4,400
		<u>2) 10,400</u>
		$\frac{3}{4}$ 5,200
		<u>3,900</u>
		50% 1,950
Deficiency in Duty	..	<u>525</u>

6 months to 31st March 1915	..	..	..	£ 8,000
Less $\frac{1}{2}$ Allowance	..	..	..	100
				<u>7,900</u>
Less $\frac{1}{2}$ Pre-War Standard	..	..	..	2,600
Excess	..	..		<u>5,300</u>

£2,650 at 50%	..	..	..	..	£ 1,325
Less Deficiency	..	..	..	..	525
					<u>800</u>
£2,650 at £60%	..	..	..	..	1,590
Excess Profits Duty					<u>£2,390</u>

Now, had the accounts been made up to 31st December 1914, showing £3,000 plus $\frac{1}{2}$ of £8,000 = £7,000, and had the accounts for three months to 31st March 1915 given £4,000, i.e. the total profit of the whole period equalling £11,000 as in

the above example, the liability would have been as follows :—

Year to 31st December 1914	£	£
Less Pre-War Standard and Allowance ..	7,000	
	5,400	
	<u>50%) £1,600</u>	
		800
Three months to 31st March 1915	£4,000	
Less $\frac{1}{4}$ Pre-War Standard and Allowance ..	1,350	
	<u>60%) £2,650</u>	
		<u>1,590</u>
		<u>£2,390</u>

When the business has *commenced* after 4th August 1914 the 60 per cent. rate attaches for any accounting period ending after 4th August 1915.

See p. 72 for rate of Excess Profits Duty under Finance (No. 2) Act, 1915.

Mineral Rights Excess.

46.—(1) Section 43 of the principal Act (which relates to excess mineral rights duty) shall have effect as if sixty per cent. of the excess were substituted as the rate of duty for fifty per cent. of the excess, in the case of minerals which have become subject to a mining lease after the fourth day of August nineteen hundred and fourteen for all accounting years, and in the case of other minerals for any accounting year ending after the completion of the first accounting year, and any additional duty may be recovered accordingly.

(2) It is hereby declared that the words in Subsection (1) of Section 43 of the principal Act, "assets of any trade or business," refer only to assets of the trade or business of the person receiving the rent for the right to work the minerals or for the mineral wayleaves.

See p. 165.

This section is similar in effect to Section 45.

Ships.

47.—Where any ship has been sold since the fourth day of August nineteen hundred and fourteen, in such circumstances that the profits of the sale are not the profits of a trade or business, the following special provisions shall, if the Commissioners of Inland Revenue so require, be applied in the computation of the liability to excess profits duty in respect of the profits arising from the use of the ship :

- (a) The pre-war standard of profits of the purchaser as respects the ship shall, where the standard of the trade or business of the vendor is a profits standard, be calculated by reference to the profits arising from the use of the ship during the pre-war trade years, and shall be ascertained in accordance with the provisions of the principal Act, but calculated, where necessary, as if the use of the ship were a separate business ; and where that standard is a percentage standard the pre-war standard of profits as respects the ship shall be the same as if the ship had not been sold, or, in the case of a ship which was used for the first time after the fourth day of August nineteen hundred and fourteen, shall be calculated by reference to the capital represented by the ship at the date when it was first used ; and the pre-war standard of profits of the trade or business of the vendor and of the purchaser shall respectively be reduced and increased as the case may require, with any adjustments which may be necessary to meet the case of borrowed money or unpaid purchase money or other similar matters :
- (b) For the purpose of estimating separately the profits arising from the use of the ship, an apportionment shall, where necessary, be made of the total profits of the trade or business in which the ship has been used, regard being had to the earnings of the ship as compared with the earnings of the other assets employed in the trade or business :

Any appeal under Subsection (5) of Section 45 of the principal Act, so far as it involves any question of an apportionment under this provision, shall be to the Special Commissioners :

- (c) The power to require returns under Subsection (1) of Section 44 of the principal Act shall include power for the Commissioners of Inland Revenue to require any vendor of the ship to give such information to them and to the purchaser as the Commissioners think necessary in order to enable the provisions of this section to be carried into effect :

- (d) Nothing in Subsection (3) of Section 40 of the principal Act or in paragraph three of Part I of the Fourth Schedule to the principal Act shall operate so as to enable the purchaser of the ship to obtain any greater relief than could have been obtained by the vendor if the ship had not been sold, other than relief in connection with expenditure by the purchaser on improvements or repairs :
- (e) In the application of Section 41 of the principal Act to any trade or business whose pre-war standard of profits has been determined or adjusted under this section any increase or decrease of capital attributable to the purchase or sale of the ship shall be disregarded, and where any such determination or adjustment has taken place both in respect of the sale of a ship and the purchase of another ship for the same trade or business, paragraph six of Part II of the Fourth Schedule to the principal Act shall not apply.

This lengthy section deals with the case of one or more of a fleet of ships being sold since 4th August 1914, and it provides that the pre-war standard shall be based on the profits from the ship in the pre-war years if the pre-war standard of the vendor is a profits standard. If, however, it is a capital percentage, the standard is to be that which would have been adopted had the sale not taken place, i.e. the capital value at the end of the last pre-war trading year. *See* p. 79.

When a ship was used for the first time after 4th August 1914 the capital represented by the ship at the date of its first use is the basis.

The vendor's and purchaser's pre-war standards are to be reduced and increased respectively by the amounts arrived at as above.

When separate accounts have not been kept for the particular ship the total profits of the vendor are to be apportioned on the applicable

facts, such as the comparative earnings of the ship and the other assets of the business.

Section 44 (p. 107) is applied in its authorisation of a demand for information from the vendor to the Revenue or the purchaser.

Section 41 (p. 101) provides for deduction from the war profits or addition thereto, according to whether the average capital in the accounting period has increased or decreased compared with the average capital in the pre-war years. Section 47 (*e*) provides that if e.g. the ship stood as an asset of the vendor at £100,000 and was sold for £250,000 there would not be an increase of capital of £150,000 between the pre-war standard and the accounting period, and, therefore, no reduction of accounting period profits. Paragraph 6 of Part II of the Fourth Schedule (p. 94) provides that where a business is *confined* to the management of particular assets, with power to substitute other assets, such a substitution shall not constitute a change of ownership (which gives assessment as a new business), and that where there has been a substitution by sale and purchase the capital for Excess Profits Duty shall only be increased or decreased by the difference between the price of the assets purchased and the price obtained for the assets sold; thus, if a ship which originally cost £100,000 was sold by "A" for £200,000 and another ship was purchased by him for £250,000, there would not be an increase of capital—and reduction of chargeable profits—of £250,000—£100,000=£150,000, but only £250,000—£200,000=£50,000.

Controlled Concerns.

48.—(1) The Commissioners of Inland Revenue may treat any sums actually paid in respect of munitions

Exchequer payments, which appear to the Commissioners to be attributable to the same period and subject-matter as that for which excess profits duty is to be paid, as a payment on account of excess profits duty, or, if the amount of the munitions Exchequer payments is larger than the amount payable as excess profits duty, as extinguishing the duty for the purposes of collection; and may arrange with the Minister of Munitions if in any case excess profits duty is paid before the munitions Exchequer payment for the deduction of excess profits duty payments from any sums to be collected in respect of munitions Exchequer payments, which appear to the Commissioners to be attributable to the same period and subject-matter as that for which the excess profits duty payments have been made, or, if the amount of the excess profits duty payments is greater than the amount to be collected on account of munitions Exchequer payments, for the extinction of the amount to be so collected.

For the purpose of determining the period to which any profits are to be attributed under this section, profits shall be deemed to accrue from day to day at a uniform rate.

(2) Any excess profits duty and any munitions Exchequer payments which are remitted under this section for the purpose of collection shall not be deemed to have been paid for the purposes of Section 35 of the principal Act (which relates to computation of profits and gains in relation to excess profits duty) as extended by this Act.

(3) Deductions shall not be allowed on account of munitions Exchequer payments in computing profits for the purpose of excess profits duty.

Under Section 48 levies under the Munitions Act are to be treated as a payment on account of Excess Profits Duty, and if the latter is less than the former it does not become payable. The comparison must be of like periods, and in the division of accounts profits are to be taken as accruing from day to day at uniform rates.

The deductions of Excess Profits Duty and Munitions Levy in arriving at the income-tax liability are to be exclusive of amounts remitted as above, but, by Section 53, Section 35 is also to apply to munitions payments.

The Munitions Levy is not deductible in arriving at the liability on the Excess Profits Duty basis.

That a modification of the relative positions of uncontrolled and controlled concerns should be made was indisputable, and much controversy will be avoided by the institution of a rationally equal footing as regards taxation. The introduction of a method of determining profits for the Munitions Levy on a different basis from that pertaining to Excess Profits Duty was an ill-balanced absurdity of the Munitions Act, as, if the Excess Profits Duty basis were not fully applicable to the Munitions Levy, clearly the former should have been amended, or, to secure a sensible consistency, the Excess Profits Duty basis should have been applied to the levy. It is difficult, too, to see any sane reason for placing the assessment and collection of Excess Profits Duty under one branch of the Government, and of the Munitions Levy under another branch. The existing duplication of accounts could easily have been avoided, but much of the agitation in the House and the press on the question of duplication—or triplication when income-tax also is considered—is gross exaggeration. The public is led to believe that a controlled concern has to keep three independent sets of books, whereas the distinction is only, in a relevant sense, in adjustment of *accounts*. A correspondent in *The Financial News* has been dilating on the duplication of work in regard to Income-tax and Excess Profits Duty, and he calls attention to the fact that the periods of accounts are not similar. The fact still remains that the duplication is only in *adjustment of accounts*, and this even could easily have been avoided by applying the income-tax basis to

Excess Profits Duty, when a storm of objection would have emanated from traders. With the existing system there are very few items of distinction. The correspondent contends that the onerous complexity of the Excess Profits Duty is shown by the fact that "in all, or most, large districts the Excess Profits returns are attended to, and settled by, not the Surveyor who deals with the income-tax for the district, but a special man, sent down from Somerset House to deal exclusively with excess profits." Surely a little consideration should have shown the correspondent that the Excess Profits Duty is an *additional* tax, and that, as Surveyors apparently had sufficient work prior to the introduction of the Duty, a little assistance is now necessary.

Directors' Fees.

49.—(1) Where the pre-war standard of profits is taken to be the percentage standard or is calculated by reference to the statutory percentage in the case of any trade or business owned or carried on by a company or other body corporate whose directors have a controlling interest, the Commissioners of Inland Revenue may, if they think fit, as respects any accounting period, including a past accounting period, for the purpose of the provisions relating to the statutory percentage and for the purpose of the determination and computation of profits under Part I of the Fourth Schedule to the principal Act, treat the company or body corporate as if it were a firm and not a company or body corporate and the directors or any of them as if they were partners in the firm.

(2) If as respects any accounting period ending on or after the first day of July nineteen hundred and fifteen the Commissioners of Inland Revenue refuse to allow a deduction in respect of any increase in the remuneration of directors of any trade or business, and the taxpayer is required to pay excess profits duty in respect of the disallowed deduction, the taxpayer shall be entitled to recover from any such director the amount which the taxpayer has paid by way of excess profits duty in respect of the increase; but any amount so recovered shall, unless

the Commissioners otherwise direct, be treated as excess profits duty paid by the director from whom it is recovered and not as excess profits duty paid by the taxpayer.

(3) In this section, the expression "directors" includes any managers or persons concerned in the management of the trade or business who are remunerated out of the funds of the trade or business.

The distribution of profits for Schedule D so as to avoid the unearned rate is obviously insupportable for Excess Profits Duty, as the latter does not extend to employees, so that the distributed profits would not be liable in the hands of the recipients, and, accordingly, artificial transactions for reduction of profits were negatived in the 1915 Act. The new Act now provides that when the directors or managers of a company have a "controlling interest" *and* when the pre-war standard is a capital percentage, the company is to be treated as a firm and the directors as partners, so that all payments to controlling directors or managers are to be added back, and thus made liable to Excess Profits Duty.

When, in any accounting period ending after 1st July 1915, the Board refuses to allow deduction of *increased* directors' remuneration the company is entitled to recover from the directors the Excess Profits Duty on the amounts of the remuneration. For the purpose of reduction of the income-tax liability under Section 35 of the 1915 Act, the company is *not* to be treated as having paid the recoverable Duty.

Losses.

50.—Paragraph 7 of Part I of the Fourth Schedule of the principal Act (which allows deductions to be made in respect of profits applied in extinction of losses) shall apply to a case where the capital account of any trade or business shows a debit balance as it applies to a case

where the percentage standard is adopted as the pre-war standard of profits.

See pp. 90 and 92.

Under the Fourth Schedule to the 1915 Act the net loss on trading in the three last pre-war trading years is deductible from subsequent profits, provided that the pre-war standard is a capital percentage. Under Section 50 the provision is to apply where the Capital Account shows a debit balance, as it applies where a percentage standard is adopted.

Accounting Period.

51.—It is hereby declared that, for the purpose of Sub-section (2) of Section 38 of the principal Act, any period for which the books of a trade or business have been actually made up for any interim or other purpose in such a manner that the profits for that period can be readily ascertained is (without prejudice to the powers of the Commissioners of Inland Revenue under that provision) to be taken as an accounting period, notwithstanding that under the articles of association of the company carrying on the trade or business or under any other regulations affecting the carrying on of the trade or business the accounts are also required to be made up for some other period, and notwithstanding that such accounts are not issued.

This section gives power to the Board of Inland Revenue to adopt as an accounting period any period for which accounts have been made up, so that the profits can be readily ascertained. Section 38 of the 1915 Act (p. 71) required the accounting period to be the period for which the accounts had been *usually* made up, and Section 51 now removes the restriction to usual periods, but only at the discretion of the Revenue.

Accumulating Profits.

52.—It is hereby declared that, for the purpose of excess profits duty, profits of any trade or business arising and accumulating during any accounting period

are not, during that period, to be treated as accumulated profits within the meaning of Part III of the Fourth Schedule to the principal Act or as capital employed in the trade or business.

See p. 97.

This section removes the legal doubt under the 1915 Act, by which it was contended that the profits accruing during a year became capital for that year as they accrued. Section 52 now only allows accumulated profits to be capital for the period following that of accrual

Munitions Levy and Income Tax.

53.—Section 35 of the principal Act (which relates to the computation of profits and gains for the purpose of income-tax in relation to excess profits duty) shall apply to sums actually paid in respect of munitions Exchequer payments as it applies to excess profits duty, except that the relief to the taxpayer under Subsection (2) of that section shall in all cases be given by means of repayment and not by deduction.

See p. 70.

Section 53 thus provides that the Munitions Levy shall be deducted from the profits, out of which it is actually paid, for Income Tax purposes. Assume the following profits to have been made:—

Year to 30th September		£
1912	..	5,000
" " 1913	..	8,000
" " 1914	..	10,000
" " 1915	..	12,000
" " 1916	..	20,000

The Munitions pre-war basis would be the average of 1912 and 1913, viz. £6,500, and the retainable profits would be £6,500 + 20 per cent. = £7,800, so that, assuming the concern to have been controlled from September 1915 and that the profits of 1914 and 1915 are after deducting Excess Profits Duty, there would be a Munitions Levy of £20,000 - £7,800 = £12,200, which would form a deduction from 1916, so that this payment

of £12,200 would be allowed for income-tax in the assessments for 1917-18, 1918-19, and 1919-20.

Prepayment of Excess Profits Duty.

54.—Any person may deposit with the Commissioners of Inland Revenue any sums for the purpose of satisfying any excess profits duty which may thereafter become payable by him; and sums so deposited shall be applied in payment of any such duty as and when it becomes payable.

In calculating the amount to be so applied in payment of duty interest shall be allowed at such rate as may for the time being be determined by the Treasury.

Under the Income Tax Acts prepayment is allowed at a discount of $2\frac{1}{2}$ per cent. per annum.

The rate of discount to be allowed in the case of prepayment of Excess Profits Duty was declared by the Treasury to be $5\frac{1}{2}$ per cent. per annum (and was subsequently reduced to 5 per cent.), but it is subject to alteration from time to time in accordance with variations in the rate of discount at which three months' Treasury Bills are offered to the public.

Controlled Concerns.

55.—Subsection (3) of Section 40 of the principal Act (which provides amongst other things for the reference of certain matters for the decision of a board of referees), shall, where the application for such a reference is made in respect of a trade or business carried on in a controlled establishment within the meaning of Part II of the Munitions of War Act, 1915, and relates to an accounting period during any part of which the establishment has been so controlled, and to the postponement or suspension of renewals, or repairs, or to exceptional depreciation, or obsolescence of assets, or to the necessity in connection with the present war of providing plant, have effect as though a referee or board of referees appointed or designated by the Minister of Munitions for the purpose were substituted for the board of referees under the principal Act.

Exceptional Depreciation.

Under Section 40 (3) of the 1915 Act claims could be made in respect of exceptional deprecia-

tion or obsolescence of assets, postponement or suspension of renewals or repairs, or provision of special war plant, when the war was the controlling cause, and the Board of Referees was to determine the claims. Section 55 now provides that a Munitions Board is to be substituted, so that the allowances made under the Munitions Act will apply.

Liquidation.

56.—In the case of any trade or business which by reason of its being unable to pay its debenture-holders or creditors is being carried on by a liquidator, receiver, or trustee under the court no excess profits duty shall be levied or paid until provision has been made for payment of such unpaid debenture-holders or creditors.

No Excess Profits Duty is to be chargeable when a business is being carried on by a liquidator, receiver, or trustee under order of the Court, owing to inability to pay debenture-holders or creditors, until provision has been made for such payment.

Definition.

57.—In this Part of this Act the expression “munitions Exchequer payments” means any sums paid into the Exchequer under Section 4 of the Munitions of War Act, 1915, on account of the excess of the net profits of a controlled establishment.

Municipal Securities.

63.—Any securities issued in the United States of America by a municipal corporation, county council, or other local authority in the United Kingdom for the purpose of raising any money which they are authorised to borrow, if issued under the authority of the Treasury, shall not be liable to any taxation present or future, except where they are held by persons domiciled in the United Kingdom or by British subjects ordinarily resident in the United Kingdom.

The expression “local authority” in this section includes the Metropolitan Water Board and any other public body which is recognised as a local authority for the purposes of this section by the Local Government Board.

American Securities.

When securities are issued in the United States by a municipal corporation, county council, or other local authority in the United Kingdom, for raising of authorised money, and if they are issued under the authority of the Treasury, the income therefrom shall not be liable to taxation, present or future, except when the holders are persons domiciled in the United Kingdom or British subjects ordinarily resident in the United Kingdom.

The income from securities issued free of taxation under the 1915 Act is not to be liable when the securities form part of the investments of the foreign life assurance fund of an assurance company and the income is applied for the purposes of that fund or reinvested so as to form part of that fund.

The much debated taxation of American securities required by the Government is dealt with in a lengthy clause. The securities are those specified in the Treasury list, and the term "securities" is defined as covering "stocks, shares, and other securities." All income derived before 1st July 1916 is omitted. Exemption is to attach in respect of income derived between the date of publication of the List and twenty-eight days thereafter, if the securities are, during that period, offered to the Government.

Exchequer Bonds.

64.—The Treasury may direct that any Exchequer bonds issued under their authority during the continuance of the present war and a period of six months thereafter shall be issued or shall be deemed to have been issued subject to the condition that the interest on those bonds shall be paid without deduction of income-tax, and the interest shall be so paid accordingly; but any such interest shall be accounted for and charged to income-tax

under the third case of Schedule D, subject, however, to any provisions of the Income Tax Acts with respect to exemptions or abatements.

General.

69.—(1) Part I of this Act, so far as it relates to duties of Customs, shall be construed together with the Customs Consolidation Act, 1876, and any enactments amending that Act, and so far as it relates to duties of excise shall be construed together with the Acts which relate to the duties of excise and the management of those duties.

Part II of this Act shall be construed together with the Income Tax Acts, 1842 to 1853, and any other enactments relating to income-tax, and those enactments and Part II of this Act are in this Act referred to as the Income Tax Acts.

Part III of this Act shall be construed together with Part III of the Finance (No. 2) Act, 1915.

(2) The Acts mentioned in the Second Schedule of this Act are hereby repealed to the extent specified in the third column of that Schedule.

(3) This Act may be cited as the Finance Act, 1916.

Free of Tax Government Securities.

The following official announcement has been made, and refers to the provisions at p. 135.

The Lords Commissioners of His Majesty's Treasury give notice under Section 47 of the Finance (No. 2) Act, 1915, as amended by Section 44 (1) of the Finance Act, 1916, as follows:—

- (1) The capital and interest of any Treasury Bills and War Expenditure Certificates issued while this announcement remains in force will not be liable to any taxation, present or future, so long as it is shown in the manner directed by the Treasury that such bills and certificates are in the beneficial ownership of persons who are neither domiciled nor ordinarily resident in the United Kingdom.
- (2) The interest of any Treasury Bills and War Expenditure Certificates issued while this announcement remains in force will not be liable to British income-tax, present or future, so long as it is shown in the manner directed by the Treasury that such bills and certificates are in the beneficial ownership of persons who are not ordinarily resident in the United Kingdom.

This announcement will remain in force until further notice.

Finance Act, 1917.

This Act was passed on 2nd August 1917, and the relevant positions are as follows :—

Rates in the £.

10.—(1) Income-tax for the year beginning on the sixth day of April nineteen hundred and seventeen shall be charged at the rate of five shillings, and super-tax, and the additional income-tax under section twenty-seven of the Finance Act, 1916, on securities which the Treasury are willing to purchase, shall be charged, levied, and paid for that year at the same rates as those charged for the year beginning on the sixth day of April nineteen hundred and sixteen.

(2) All such enactments relating to income-tax, including super-tax and the said additional income-tax, as were in force with respect to the duties of income-tax granted for the year beginning on the sixth day of April nineteen hundred and sixteen shall have full force and effect with respect to any duties of income-tax hereby granted.

(3) The annual value of any property which has been adopted for the purpose either of income-tax under Schedules A. and B. in the Income Tax Act, 1853, or of inhabited house duty for the year ending on the fifth day of April nineteen hundred and seventeen, shall be taken as the annual value of such property for the same purpose for the next subsequent year; provided that this subsection—

(a) so far as respects the duty on inhabited houses in Scotland, shall be construed with the substitution of the twenty-fourth day of May for the fifth day of April; and

(b) shall not apply to the metropolis as defined by the Valuation (Metropolis) Act, 1869.

This section thus adopts the 1916-17 rates for 1917-18 for Income Tax and Super Tax, and is similar to the sections in the 1915 and 1916 Acts at pp. 36, 114. The graduated rates are shown at p. 115 for Income Tax and p. 53 for Super Tax.

Soldiers and Sailors.

11.—The provisions of sections twenty-nine, thirty, and forty-three of the Finance Act, 1916 (which give relief from income-tax in certain cases for the then current income-tax year), shall have effect as if herein re-enacted

and in terms made applicable to the income-tax year beginning on the sixth day of April nineteen hundred and seventeen :

Provided that—

- (a) for the words from “and in calculating” to the end of subsection (2) of the said section thirty, there shall be substituted the words “and in calculating “the earned income on which relief is to be given “under this section the deductions required to be “made from earned income under subsection (2) “of section nineteen of the Finance Act, 1907, as “amended by any other Act, shall not be made “from the pay unless and except in so far as the “amount of those deductions exceeds the aggregate “amount of the earned income other than the pay “and of the unearned income”; and
- (b) the said section thirty, as so amended, shall apply to any person who during the current income-tax year has served, or serves, for not less than three months as master or a member of the crew of any ship or fishing boat as it applies to any of the persons mentioned in that section.

Section 29 of the 1916 Act (p. 123) gives assessment on the actual income of the year of assessment when the total income from all sources for such year is less by more than 10 per cent. than the assessed income. Section 43 (p. 134) gives relief in the case of income which has suffered a Colonial tax. Section 30 (p. 125) gave relief in respect of naval and military pay, and the graduated rates in the £ applicable thereto are given at p. 115.

Section 11 contains an important amendment of the law, as it requires abatements and other allowances to be first made from income other than the pay. Previously the reduced rates conferred no actual advantage, as the assessment on the pay was exhausted by the e.g. abatement, leaving the other sources of income chargeable normally. This is altered by Section 11, which enacts that the pay shall be charged in full and

the allowances made from (a) other earned income and (b) unearned income; but if (a) and (b) are not sufficient to cover the allowances, the balance of such allowances is made from the assessment on the pay. The following example shows the alteration in procedure :—

Pay	£
Property	180
Dividends	20
	80
Total income ..	<u>£280</u>

The total income not being in excess of £300 the previous abatement of £160 applies, and the liability prior to the 1917 Act was as follows :—

Pay	£			
Less abatement..	180			
	<u>20</u>	at	9d.	=
Property	20	at	3/-	=
Dividends	80	at	3/-	=
				£ 15 15 0

The 1917 Act reduces this as under :—

Property	£
Less abatement..	20
	<u>20</u>
	nil
Dividends	80
Less abatement..	80
	<u>80</u>
	nil
Pay	180
Less abatement..	60
	<u>120</u>
	120 at 9d. =
	<u>£4 10 0</u>

Subsection (b) extends the scope of the naval and military allowances (p. 125) to cover the merchant service, but service of at least three months in the year is required.

Reduced Incomes.

12.—(1) Section thirteen of the Finance Act, 1914, (Session 2) (which gives relief in respect of diminution of

income due to war), shall apply to income-tax (including super-tax) for the current income-tax year, but with the substitution, as regards postponed super-tax, of the first day of January nineteen hundred and nineteen for the first day of January nineteen hundred and sixteen as the date on which the postponed super-tax is to become payable.

(2) Any payment of super-tax for any year (hereinafter referred to as the year of charge) which has been postponed under section thirteen of the Finance Act, 1914, (Session 2), as continued by section twenty of the Finance Act, 1915, and section twenty-eight of the Finance Act, 1916; or which has been postponed and further postponed under those sections, may be further postponed until the first day of January nineteen hundred and nineteen, if the individual from whom the payment is due proves to the satisfaction of the Special Commissioners that his actual income from all sources for the current income-tax year is or will be less than two-thirds of the income on which he was liable to be charged to super-tax for the year of charge.

This section continues the reintroduction of Section 133 of the 1842 Act (pp. 18, 32) and other relief contained in Section 13 of the 1914 (2) Act.

Relief for Children.

13.—(1) If any individual who has been assessed or charged to income-tax or has paid income-tax either by deduction or otherwise, claims and proves in manner prescribed by the Income Tax Acts that his total income from all sources, although exceeding one hundred and thirty pounds does not exceed seven hundred pounds, and that for the year for which the income-tax is charged he has the custody of and maintains at his own expense a child or children under the age of sixteen years at the commencement of that year, and that neither he nor any other individual is entitled to relief from income-tax in respect of the same child or children by virtue of section sixty-eight of the Finance (1909-10) Act, 1910, as amended by any subsequent enactment, or if any other individual is entitled to such relief that that other individual has relinquished his claim thereto, he shall be entitled in respect of every such child to relief from income-tax equal to the amount of the income-tax upon twenty-five pounds.

(2) The provisions of subsections (2) and (3) of section sixty-eight of the Finance (1909-10) Act, 1910, as amended by any subsequent enactment, shall apply to the relief given under this section, to the manner of claiming such

relief, and to the proof to be given with respect thereto, as if they were herein re-enacted and in terms made applicable to this section.

Previously the allowance for children—viz. £25 for each child under 16 years of age at the *commencement* of the year of assessment when the total income did not exceed £700—was restricted to legitimate children of the person assessed or to illegitimate children when the parents have married each other. Adopted children were, therefore, excluded, but Section 13 now extends the allowance to cover adopted children. The following restrictions have to be observed :—

(1) The person claiming the allowance must (a) have the custody of the child and (b) maintain it at his own expense.

(2) The parent must relinquish his right to the allowance.

Trust Income.

14.—(1) Where in pursuance of the provisions of any will or settlement any income arising from any fund is accumulated for the benefit of any person contingently on his attaining some specified age or marrying, and the aggregate amount in any income-tax year of that income and the income from any other fund subject to the like trusts for accumulation and of the total income of that person from all sources (hereinafter referred to as “the aggregate yearly income”) is of such an amount only as would entitle an individual either to total exemption from income-tax or to relief from income-tax, that person shall, on making a claim for the purpose within three years after the end of the income-tax year in which the contingency happens, be entitled, on proof of the claim in manner prescribed by the Income Tax Acts, to have repaid to him on account of the income-tax which has been paid in respect of the income during the period of accumulation a sum equal to the aggregate amount of relief to which he would have been entitled if his total income from all sources for each of the several years of the said period had been equal to the aggregate yearly income for that year, but in calculating that sum a deduction shall be made in respect of any relief already received.

(2) All the provisions of the Income Tax Acts which relate to claims for exemption, relief, or abatement, or the proof to be given with respect to those claims, shall apply to claims for relief under this section and the proof to be given with respect to those claims.

The practice with minors has been as follows :—

(a) When the minor has an immediately vested interest in the income from the trust it is treated as his income for all purposes, and abatement, &c., allowed.

(b) When the minor's interest in the income is contingent on e.g. the attainment of majority only, the income spent on maintenance and education is all that is taken as the minor's income for the purpose of relief.

The question is important in that when (a) applies repayment is made of the difference between the 5s. rate and that applicable to the minor's total income, and with (b) the income spent on maintenance and education is taken as the total income of the minor (assuming he has no other income) and repayment made for exemption, abatement, lower rates, &c.

Now, with (b) the practice did not allow a claim, on attainment of majority, in respect of the accumulated income, which was treated as capital, so that the minor actually suffered tax at the highest rate.

Section 14 provides that, on the contingency happening, the accumulated income may be spread over the period of accumulation and repayment claimed on the basis of the minor's total income for each year including the income accumulated in such year. If, e.g., a trust fund produced an income of £350 per annum, which

was vested in a minor contingent on his attaining the age of 21 four years hence, and £100 per annum is being spent on maintenance, &c., tax will be paid at 5s. in the £ on £350, but the minor's guardian may claim repayment each year on £100, assuming the minor has no other sources of income, and on attaining the age of 21 he may claim repayment on the accumulated income as follows :—

		£		£	s	d
Tax paid each year ..	..	350 at 5/-	=	87	10	0
Less tax repaid ..	..	100 at 5/-	=	25	0	0
				<hr/>		
				62	10	0
Liability each year ..	..	350				
Less abatement ..	..	120				
		<hr/>				
		230 at 3/-	=	34	10	0
				<hr/>		
				28	0	0
				<hr/>		
				4	0	0
				<hr/>		
Total repayment			=	£112	0	0
				<hr/>		

Section 14 only applies to trusts under Wills or Settlements.

Short Loan Interest.

15.—Section twenty-two of the Finance Act, 1915 (which provides for the repayment in certain cases of income-tax on interest paid to banks), shall, subject as hereinafter mentioned, apply to interest (not being yearly interest) payable in the United Kingdom on an advance from a person who in the opinion of the Commissioners of Inland Revenue is *bonâ fide* carrying on business as a member of a stock exchange in the United Kingdom or from any person who in the opinion of the said Commissioners is *bonâ fide* carrying on the business of a discount house in the United Kingdom, as it applies to interest payable on an advance from a bank :

Provided that no repayment shall be made under the said section as applied by this section unless the Commissioners of Inland Revenue are satisfied that the interest has been or will be brought into account in the return made or to be made for the purposes of income-tax by the person making the advance.

This section is an extension of that at p. 35, and interest paid to members of a Stock Exchange or

to discount houses is placed in the same category as interest paid to a bank on overdraft. Tax is not deductible from this interest, which is not annual being at fluctuating rates, so that when, e.g., money is borrowed on short loan from the bank or Stock Exchange members or discount houses for the purpose of taking up stocks, allowance of the interest may be obtained by repayment of tax on such interest.

Controlled Concerns.

16.—(1) Where a deduction on account of any of the matters specified in section thirty-nine of the Finance Act, 1916 (which provides for the repayment of income-tax on sums deducted from profits), has been allowed for the purposes of excess profits duty in calculating the profits of a controlled establishment for any period during which it is subject to control, that section shall, subject to the necessary modifications, apply as it applies where a deduction has been allowed in calculating those profits for the purposes of Part II of the Munitions of War Act, 1915 :

Provided that a repayment of income-tax shall not be allowed under this section and also under the said section thirty-nine in respect of the same deduction.

(2) Subsection (3) of section twenty-six of the Finance Act, 1907, shall apply, with the necessary modifications, with respect to any repayment of income-tax under the said section thirty-nine or this section, as it applies with respect to deductions for wear and tear.

See p. 132. This section allows a controlled concern charged to Excess Profits Duty instead of Munitions Levy to deduct for income-tax the allowances made for Excess Profits Duty in respect of exceptional depreciation or obsolescence. Section 26 (3) of the 1907 Act, referred to in Subsection 2, allows any deduction not allowable in a particular year for income-tax owing to deficiency of assessable profits, to be carried forward until there are sufficient assessable profits, as is done with depreciation.

Tax Free War Loan.

17.—(1) Where any securities have been issued in connection with any Government loan raised for the purposes of the present war and such securities were issued subject to the condition that the interest thereon should be exempt from assessment to income-tax, but should not be exempt from super-tax, the interest on the securities shall be exempt from assessment to income-tax but shall not be exempt from super-tax.

(2) The interest on any such securities shall, for the purposes of super-tax and for the purposes of any relief from income-tax which depends on the total income from all sources, be treated as part of the total income from all sources as if the amount actually received represented net income after deduction of income-tax at the highest current rate; but nothing in this provision shall be construed as entitling any person to the repayment of any sum on account of income-tax on the ground that he is to be treated as having paid income-tax at such rate as aforesaid on the interest so exempt.

This section is inserted to legalise the 4 per cent. tax free War Loan issued at the beginning of 1917. This Loan was issued on the understanding that it should not be liable to income-tax but no repayment thereon was to be permissible, neither was anything exempted from super-tax to attach. In arriving at "total income from all sources" for abatement, &c., or super-tax purposes, the interest is to be treated as are "free of tax" dividends, i.e. tax has to be added, thus £60 interest on the 4 per cent. War Loan would be aggregated as £80, i.e. £80 less tax at 5s. = £60.

War Loan.

18.—(1) Section sixty-four of the Finance Act, 1916 (which relates to the payment of interest on Exchequer bonds without deduction of income-tax), shall apply and shall be deemed always to have applied to registered or inscribed stock of the five per cent. War Loan, 1929-1947, and to any stock which has been converted into that stock or into stock of the four per cent. War Loan, 1929-1942, as it applies to Exchequer bonds.

(2) Section forty-one of the Finance Act, 1916, is hereby repealed.

The 5 per cent. War Loan and the 6 per cent. Exchequer Bonds, unless held in bearer form, are payable without deduction of tax, and the recipient is assessed direct under Case 3 of Schedule D on the income of the *preceding* year, so that there is not liability thereon for 1917-18.

19.—Where interest on any securities issued in connection with any Government loan raised for the purposes of the present war is paid without deduction of income-tax, any person by whom such interest is paid, and any person who receives on behalf of any other person (being a registered or inscribed holder of any such security) any interest so paid without deduction of income-tax, and any person who has acted as intermediary in the purchase of any securities on which the interest is payable without deduction of income-tax, shall, on being so required by the Commissioners of Inland Revenue, furnish to them—

- (a) the names and addresses of the persons to whom such interest has been paid or on whose behalf such interest has been received, or on whose behalf such securities have been purchased;
- (b) the amount of the interest so paid or received, or the amount of the securities so purchased.

This section is complementary to Section 18 and provides the legal machinery for the direct assessments on the recipients of war loan interest paid without deduction of tax.

PART III.

Excess Profits Duty.

Increase in Rate.

20.—(1) The Finance (No. 2) Act, 1915 (in this Part of this Act referred to as the principal Act), shall, so far as it relates to excess profits duty, apply, unless Parliament otherwise determines, to any accounting period ending on or after the first day of August nineteen hundred and seventeen and before the first day of August nineteen hundred and eighteen, as it applies to accounting periods ended after the fourth day of August nineteen hundred and fourteen and before the first day of August nineteen hundred and seventeen.

(2) Section thirty-eight of the principal Act shall, as respects excess profits arising in any accounting period commencing on or after the first day of January nineteen hundred and seventeen, have effect as if eighty per cent.

of the excess were substituted as the rate of duty for sixty per cent. of the excess, or, in the case of an accounting period which commenced before that date but ends after that date, as if eighty per cent. were substituted for sixty per cent. as respects so much of the excess as may be apportioned under this Act to the part commencing on that date.

In calculating any repayment or set off under subsection (3) of section thirty-eight of the principal Act any amount to be repaid or set off on account of a deficiency or loss arising in any accounting period commencing on or after the first day of January nineteen hundred and seventeen, or, in the case of an accounting period which has commenced before that date but ends after that date, on account of so much of the deficiency or loss as may be apportioned under this Act to the part commencing on that date, shall be calculated by reference to duty at the rate of eighty per cent.

Any additional duty payable by virtue of this section in respect of a past accounting period may be assessed and recovered notwithstanding that duty has already been assessed in respect of that period.

(3) It shall be the duty of every person chargeable to excess profits duty, if he has not previously given notice of his liability to be charged with excess profits duty in respect of any accounting period, to give notice to the Commissioners within two months after the termination of any accounting period in respect of which he is chargeable, or, if the accounting period terminated before the passing of this Act, within one month after the passing of this Act.

If any person fails to give the notice required by this provision he shall be liable on summary conviction to a fine not exceeding one hundred pounds, and to a further fine not exceeding ten pounds a day for every day during which the offence continues after conviction therefor.

This extends the Excess Profits Duty to accounting periods ending up to 31st July 1918.

The 1915 (2) Act gave a rate of 50 per cent. for the first 12 months of accounting period, and the 1916 Act increased this to 60 per cent. Section 20 now gives a further increase to 80 per cent. for such part of an accounting period as is after 31st December 1916. Assume the following figures:—

Profit year to 30th June, 1917	.. ..	£	6,000
Less pre-war standard	.. ..	£4,000	
" allowance .. ..	.. ..	200	
		<u>4,200</u>	
Excess	=	<u>£1,800</u>	

This excess has to be divided as follows:—

Six months	=	£900 at 60 per cent.	=	£	540
"	=	900 at 80 "	=		720
Total liability	=		=	<u>£1,260</u>	

Deficiencies to be set-off under Section 38 (3) of the 1915 (2) Act are to be calculated at the rates applying during the periods of the deficiency, thus, if the above excess of £1,800 had been a deficiency of £1,800, there would have been a set-off against past or future liability of £1,260.

Mineral Rights Duty.

21.—Section forty-three of the principal Act (which relates to excess mineral rights duty) shall have effect as if eighty per cent. of the excess were substituted as the rate of duty for sixty per cent. for any accounting year commencing on or after the first day of January nineteen hundred and seventeen, or, in the case of an accounting year which commenced before that date but ends after that date, as if eighty per cent. were substituted for sixty per cent. as respects so much of the excess as may be apportioned under this Act to the part commencing on that date, and any additional duty may be recovered accordingly:

Provided that where it is shown to the satisfaction of the Commissioners that the amount payable as rent under any lease or agreement for a lease for any accounting year in respect of which or any part of which excess mineral rights duty is payable at the rate of eighty per cent. is not greater than the average amount payable as rent for the two pre-war years the prices in which are selected by the taxpayer for the purpose of determining the pre-war rent values of the rent for the accounting year, or would be reduced below that amount by the payment of excess mineral rights duty, no excess mineral rights duty or, as the case may be, such an amount of excess mineral rights duty only as will reduce the amount payable as rent for the accounting year to the said average amount, shall be paid for that accounting year.

The rate is thus increased as with Excess Profits Duty.

The Excess Mineral Rights Duty is assessable only on the basis of prices per ton, and the *quantities* are irrelevant (see p. 105). Section 21 provides against liability when the prices have increased but the quantities have so decreased as to make the actual war royalty *not* in excess of the pre-war royalty.

Shipping Companies.

22.—(1) In computing the excess profits duty of any trade or business which consists wholly or partly of the business of shipping the provisions of subsection (3) of section thirty-eight of the principal Act (which relate to the repayment or setting off of duty on account of deficiencies or losses) shall not apply in relation to any deficiency or loss in any accounting period commencing on or after the first day of January nineteen hundred and seventeen, and in the case of an accounting period which has commenced before that date but ends after that date, shall not apply in relation to so much of the deficiency or loss as may be apportioned under this Act to the part commencing on that date :

Provided that—

- (a) where the shipping business is carried on merely as ancillary to the principal trade or business, the provisions of this section shall not apply;
- (b) where the trade or business carried on does not consist wholly of shipping, and the part which does not consist of shipping is not merely ancillary to the business of shipping, such apportionment of any deficiency or loss shall be made by the Commissioners as may be necessary to limit the application of this section to such part of the business as consists of shipping; and
- (c) if in any such accounting period as aforesaid there has been a loss or the profits have not reached the point which would have involved liability to excess profits duty if the percentage standard had been adopted, the same amount shall, as respects the deficiency or loss or so much thereof as is affected by this section, be repaid or set off under subsection (3) of the said section thirty-eight as would have been repaid or set off if the percentage standard had been adopted.

(2) Any appeal under subsection (5) of section forty-five of the principal Act on any question arising under this section shall be to the Special Commissioners.

(3) In this section the expression "business of shipping" means the business carried on by an owner of ships, and for the purposes of this definition the expression "owner" includes any charterer to whom a ship is demised.

The object of this section is to withdraw from shipping companies the set-off under Section 38 (3) of the 1915 (2) Act in respect of deficiencies arising in such part of an accounting period as is after 31st December 1916. Subsection 1 (c) allows the deficiency represented by the excess of the percentage standard (p. 79) over the profits.

Colonial Excess Profits Duties.

23.—(1) His Majesty may by Order in Council declare—

(a) that under the law in force in any of His Majesty's possessions excess profits duty is chargeable in respect of any profits in respect of which excess profits duty is also payable in the United Kingdom; and

(b) that arrangements have been made with the Government of any such possession whereby in respect of any profits, only the duty which is higher in amount is to be payable, and the amount of such duty is to be apportioned between the respective Exchequers in proportion to the amount of duty which would otherwise have been payable in the United Kingdom and in that possession respectively.

(2) Where any such Order in Council is made, then, if the Commissioners are satisfied that any case is one to which any such arrangements relate, they may, in lieu of any relief granted under paragraph 4 of Part I of the Fourth Schedule to the principal Act, allow or make such remission or adjustments of duty as may be necessary to give effect to such arrangements, so, however, that the effect of such remission or adjustments shall not be less favourable than the relief in lieu of which they are allowed or made.

(3) The obligation as to secrecy imposed by subsection (8) of section forty-five of the principal Act, shall not prevent the disclosure to the Government of the possession concerned of such facts as may be necessary to enable such arrangements as aforesaid to be carried into effect.

This section allows adjustment when Excess Profits Duty has been paid in a Colony on the same profits, so that only the larger of the liabilities is collected, and this is then divided between the Home Exchequer and the Colonial Exchequer in the proportions borne by the individual liabilities.

Controlled Concerns.

24.—(1) The provisions of section four of the Munitions of War Act, 1915, with respect to munitions Exchequer payments shall not apply to any profits arising after the thirty-first day of December nineteen hundred and sixteen or apportioned under this Act to the period after that date.

(2) Munition Exchequer payments arising on or before the thirty-first day of December nineteen hundred and sixteen, or apportioned under this Act to the period down to and including that date shall, after the passing of this Act, be assessed and collected, or, if already assessed but not collected, collected, by the Commissioners, and shall be computed by them in accordance with the provisions of that Act and the rules made thereunder, and the Commissioners shall for those purposes have all the powers of the Minister of Munitions, including the power of making rules.

For the purposes of such assessment and collection, the provisions for the time being in force with respect to the assessment and collection of excess profits duty (including provisions as to returns and penalties, but excluding provisions imposing any charge of duty or as to the computation of duty) shall apply, and rules may be made by the Commissioners accordingly, and the provisions of section forty-eight of the Finance Act, 1916, relating to the adjustment of excess profits duty and munitions Exchequer payments, shall apply subject to such modifications as may be necessary in consequence of the transfer of powers effected by this subsection.

Any rules made by the Commissioners may specify matters which may be referred to the Minister, or to a referee or board of referees appointed by him, and prescribe the manner in which such cases are to be referred.

(3) For the purpose of subsection (3) of section five of the said Act, any establishments in which the same person has a controlling or preponderating interest may, if the Commissioners so determine, be treated as belonging to the same owner.

(4) Subsections (2) and (3) of section forty-nine of the Finance Act, 1916 (which relate to the recovery of payments in respect of increased directors' fees), shall apply for the purposes of munitions Exchequer payments as they apply for the purposes of excess profits duty, with the necessary modifications.

A controlled concern was liable to the higher tax—Munitions Levy or Excess Profits Duty, but, for such part of an accounting period as is after 31st December 1916, the Excess Profits Duty alone attaches. The liability to Munitions Levy is less a pre-war standard consisting of the average profits of the *last 2* pre-war years and 20 per cent. of the excess. The Board of Inland Revenue is taking over, from the Ministry of Munitions, the Munitions Levy from 1st January 1917, including any unassessed Levy for prior periods.

Subsection 3 allows the setting-off of a deficiency on one establishment against the excess on another for Munitions Levy.

Section 49 of the 1916 Act (p. 146) authorises, in cases where increased remuneration to managers, &c., is disallowed for Excess Profits Duty under paragraph 5 of Part I of the Fourth Schedule, recovery by the employer from the employee of Duty on the disallowed increase.

Capital Percentages.

25.—Notwithstanding anything contained in section forty-two of the principal Act (which provides for the reference to the Board of Referees of questions as to percentages, &c.) the Commissioners may, if they think fit, refer to the Board of Referees any application made under that section as respects a class of trade or business, although the application may relate to matters already decided by that Board, and the Board may, if they think

fit, on cause being shown by additional evidence or otherwise, reopen the case and make any order which they could have made on an application relating to matters not already decided by them, and may revise any order previously made by them affecting that class of trade or business; and any such order or revised order shall, as from such date as may be specified therein, apply and have effect in lieu of any previous order relating to the same matter.

This section merely gives power to *reopen* a determined percentage.

Increased Capital.

26.—In the application of Part III of the principal Act to excess profits duty for any accounting period ending after the thirty-first day of December nineteen hundred and sixteen, the following provisions shall have effect :—

- (1) In ascertaining the deduction to be made from the profits of the accounting period in respect of increased capital, or the pre-war standard of profits in cases where there has not been one pre-war trade year, three per cent. shall be added to the statutory percentage per annum; and, accordingly, in subsection (1) of section forty-one of, and paragraph 4 of Part II of the Fourth Schedule to, the principal Act, the expression "statutory percentage" shall be taken to mean the statutory percentage as so increased :
- (2) The statutory percentage shall, in the case of a trade or business not carried on or owned by a company or other body corporate, be taken to be eight per cent. instead of seven per cent.; and accordingly subsection (2) of section forty of the principal Act shall have effect as though eight per cent. were substituted for seven per cent. :

Provided that nothing in this provision shall affect the amount of the statutory percentage for the purposes of subsection (2) of section forty-one of the principal Act :

- (3) Any increase of the statutory percentage under this section shall be in addition to any increase of the statutory percentage which has, before the passing

of this Act, been made under section forty-two of the principal Act :

This increases the allowance for increased capital by 3 per cent. for the whole of *all* accounting periods ending after 31st December 1916, thus there is no splitting of a period that commences before and ends after that date. The 3 per cent. does not apply to *decreased* capital.

The percentage for a firm is 1 per cent. higher than for a company (p. 79), but Section 26 doubles this.

Pre-War Standard.

- (4) Where the pre-war standard of profits of any trade or business does not exceed five hundred pounds, and the profits of the accounting period, after any adjustment in respect of increased or decreased capital, are less than two thousand pounds, subsection (1) of section thirty-eight of the principal Act shall have effect as though for two hundred pounds there were substituted two hundred pounds with the addition of one-fifth of the amount by which the profits of the accounting period are less than two thousand pounds; so, however, that if there has been a loss in the accounting period, then for the purpose of ascertaining the amount of any repayment or set-off under the principal Act the addition allowed shall be such as if there had been neither loss nor profit, and that where the accounting period is a period of less than a year, this provision shall have effect as if there were substituted for two thousand pounds and two hundred pounds respectively a proportionately reduced amount :

The foregoing provision shall apply where the pre-war standard of profits exceeds five hundred pounds, subject to this qualification, that the amount of the addition shall be reduced by the amount by which the pre-war standard exceeds five hundred pounds :

The £200 allowance is increased by this subsection so as to give a total pre-war standard of:—

Pre-war standard + £200 + $\frac{1}{5}$ th (£2,000 – profits of accounting period) – (pre-war standard – £500).

This provision applies to the whole of a period ending after 31st December 1916.

The following official memorandum was issued:—

1. By Section 26 (4) of the Finance Act, 1917, an increased measure of relief is granted in the case of small businesses. This provision applies to any accounting period ended after the 31st December 1916, and its effect is explained below.

2. Under the original provisions of the law relating to Excess Profits Duty, a deduction was allowed at the rate of £200 per annum in ascertaining the excess profit (or deficiency) of any period of charge and the special relief for which provision is now made will be granted as an addition to that allowance.

3. The full special relief applies in cases where—

(a) the profit of the accounting period is less than £2,000 (or at a rate less than £2,000 per annum if the accounting period is less than a year), and

(b) the pre-war standard does not exceed £500.

The additional allowance to be granted in any such case is one-fifth of the amount by which the profit of the accounting period falls short of £2,000 (or the proportionate part of £2,000 where the period is less than a year).

4. The following example will illustrate the operation of the relief:—

Pre-war standard	.. .. .	£
Profit of accounting period (a year)	..	250
Under the original provisions duty would have been payable on £300, viz.,		750

Profit of accounting period	..	..	£	750
Less Pre-war standard	..	..	£	250
Allowance	..	..		200
			—	450
Chargeable excess	..	..	..	300

Under the present provisions duty is payable on £50, viz.,

Profit of accounting period	..	..	£	750
Less Pre-war standard	..	..	£	250
Fixed allowance	..	..		200
				2000 - 750
Special allowance			—	5
				250
			—	700
Chargeable excess	..	..	..	50

5. The allowance takes the form of a sliding scale whereby the business realising the smaller profit obtains the greater relief. The maximum allowance is £400 per annum (in addition to the original fixed allowance of £200), and this maximum is reached when the profit is *nil* or a loss is suffered. In such cases, while no duty would in any event be payable for the period in which no profit is made, the proposed relief becomes effective by increasing the deficiency which may be set off against the excess profits of earlier or later periods.

6. In the case of a taxpayer whose pre-war standard is somewhat in excess of £500, a limited form of this relief is given. He is entitled to any deduction which may be necessary to place him in as favourable a position as if his standard were £500. For example, if the profits of the accounting period (a year) are £1,500 (full special allowance £100), but the standard is £560 (£60 in excess of £500), the taxpayer is entitled to a reduced special allowance of £40 (£100 - £60) in addition to the fixed allowance of £200. The maximum relief under the subsection being £400 (one-fifth of £2,000), this limited relief for taxpayers whose pre-war standard is somewhat in excess of £500 never applies when the pre-war standard amounts to or exceeds £900 (500 + £400).

7. The following table shows the effect of the special relief in a series of cases, the accounting period in each case being taken to be a year.

Profit of Account- ing Period.	Amount of Allowance (including fixed allowance of £200) and net amount of excess on which duty is payable (+) or deficiency on which duty is repayable (-).							
	Standard £100		Standard £300		Standard £500		Standard £600	
	Total Allowance	Net Excess or Deficiency	Total Allowance	Net Excess or Deficiency	Total Allowance	Net Excess or Deficiency	Total Allowance	Net Excess or Deficiency
£ 0	£ 600	£ 700	£ 600	£ 900	£ 600	£ 1,100	£ 500	£ 300
250	550	400	550	600	550	800	450	250
500	500	100	500	300	500	500	400	200
750	450	200	450	0	450	200	350	200
1,000	400	500	400	300	400	100	300	200
1,500	300	1,100	300	900	300	700	200	200
2,000	200	1,700	200	1,500	200	1,300	200	200
				+1,500		+1,300	+700	+1,200
							+1,200	+1,000

In cases below the thick line the additional allowance proposed by the new clause does not apply
and the taxpayer is only entitled to the fixed allowance of £200.

Separate Businesses.

(5) Where the Commissioners are satisfied—

(a) that in connection with any trade or business two or more distinct and independent industries are carried on in separate establishments, and with books kept in such a manner that the profits in respect of each industry can be readily ascertained; and

(b) that in any year by reference to which the pre-war standard of profits is calculated a loss has been sustained in respect of any one or more of such industries;

the Commissioners may, if they think fit, in computing the profits standard, disregard that loss:

The object of this is to remove the inequity which is illustrated below, A. and B. being separate establishments of the same business:—

Before 1917 Act.

		A		B	
		£		£	
1911	..	1,000	profit	400	profit
1912	..	2,000	"	1,000	loss
1913	..	2,500	"	1,000	"

		£	
1911	..	1,400	profit
1912	..	1,000	"
1913	..	1,500	"

		£	
Pre-war standard—1911	..	1,400	
1913	..	1,500	
		<u>2,900</u>	
		£1,450	

Under 1917 Act.

		£		£		£
1911	..	1,000	+	400	=	1,400
1912	..	2,000	—	nil	=	2,000
1913	..	2,500	—	nil	=	2,500

		£	
Pre-war standard—1912	..	2,000	
1913	..	2,500	
		<u>4,500</u>	
		£2,250	

Pre-War Losses.

- (6) Where the Commissioners are satisfied that during the last six pre-war trade years, owing to trading losses—
- (a) any former assets of any trade or business have ceased to form part of the assets of that trade or business; or
 - (b) the money borrowed in respect of the trade or business or the debts of the trade or business have increased;
- the Commissioners shall, for the purpose of ascertaining the capital of the trade or business in any case where the percentage standard is adopted, compute the capital as though there had been no such loss of assets or increase of borrowed money or debts :

When assets are reduced owing to trading losses in the pre-war years the reduction is to be ignored in calculating the capital on which to base the pre-war standard.

Unremunerative Capital.

- (7) Six years shall be substituted for three years in subsection (4) of section forty-one of the principal Act (which provides for the adjustment of excess profits duty in respect of unremunerative capital).

Co-Operative Societies.

- (8) The excess profits duty of a society registered under the Industrial and Provident Societies Acts may, if the society so requires, instead of being computed as provided for by paragraph 10 of Part I of the Fourth Schedule to the principal Act, be computed as follows :—

The amount of excess profits (if any) arising on commercial transactions with non-members shall be separately ascertained in accordance with the general principles of the principal Act, and there shall be added thereto the amount (if any) by which the profit or surplus arising from transactions with members per pound sterling of turnover in the accounting period exceeds the like profit or surplus in the pre-war trade year or average of years taken

as the basis of computation for the purpose of the pre-war standard of profits in respect of such commercial transactions as aforesaid, multiplied by the number of pounds sterling of turnover in the accounting period; and excess profits duty shall be charged on the sum of those amounts:

Provided that the method of computation hereby laid down shall not be adopted for ascertaining the amount of any deficiency or loss for the purposes of subsection (3) of section thirty-eight of the principal Act, nor shall any duty computed under this provision be repaid or remitted by reason of a deficiency or loss in any other accounting period computed as provided for by the said paragraph 10.

Regulations made by the Commissioners for the purpose of carrying the foregoing provision into effect may provide for defining and ascertaining turnover and the profit or surplus per pound sterling thereof, and for the application of that provision to new societies, and for extending, subject to such modifications as may be prescribed, to cases where duty is computed under that provision any of the general principles of the principal Act as to relief from duty.

See p. 91 whether the liability is the excess profit *per member* multiplied by the number of members in the accounting period. Section 26 (8) allows substitution of per £ turnover for per member.

Apportionment of Accounting Periods.

27.—Where part of an accounting period or of an accounting year, or of any period in respect of part of which munitions Exchequer payments are chargeable, is after, and part before, the beginning of the first day of January nineteen hundred and seventeen, the total excess profits and any deficiencies or losses arising in any such accounting period, and the total excess rent for any such accounting year, and the total profits in respect of part of which munitions Exchequer payments are chargeable, shall be apportioned between the time up to, and the time after, that date in proportion to the number of months or fractions of months before and after that date respectively.

Where the accounting period is to be divided for the 80 per cent. and 60 per cent. rates the division is to be made in accordance with the fractions of months before and after 1st January 1917.

28.—In this Part of this Act references to the principal Act, or to the Munitions of War Act, 1915, or to any provisions of those Acts, shall be construed as references to those Acts or provisions as amended by any subsequent enactment, and the expression “the Commissioners” means the Commissioners of Inland Revenue, and the expression “munitions Exchequer payments” in this Part of this Act and in any other enactment, includes any sums payable into the Exchequer under section four of the Munitions of War Act, 1915, on account of the excess of the net profits of a controlled establishment.

Payment in War Loan.

34.—The Treasury may by regulations prescribe as securities to be accepted in payment of any death duty or excess profits duty or munitions Exchequer payments any stock or bonds forming part of any issue made for raising money in connection with the present war, and any such regulations may specify different securities in respect of different duties and payments, and may prescribe the limitations and conditions subject to which any securities will be accepted, and any person from whom any sum is due on account of any death duty or excess profits duty or munitions Exchequer payments may pay that sum or any part thereof by means of the transfer, in accordance with and subject to the provisions of such regulations as aforesaid, to the Commissioners of Inland Revenue of an appropriate amount (ascertained as hereinafter mentioned) of any stock or bonds authorised by the regulations.

(2) Any stock or bonds so transferred shall be accepted by the Commissioners of Inland Revenue in satisfaction of the amount.

(3) Any stock or bonds so transferred shall be deemed to mature for payment on the date of the transfer, but the principal payable on maturity shall be deemed to be a sum equal to the price of issue, and the principal and interest of the stock or bonds when received by the Commissioners of Inland Revenue shall be brought to account as revenue in such manner as the Treasury may direct.

(4) Stocks or bonds so transferred shall for the purposes of this section be valued at the price of issue with the addition of any interest accrued due at the date of transfer but then remaining unpaid, after deducting the amount of any interest which may be receivable by the transferor after that date :

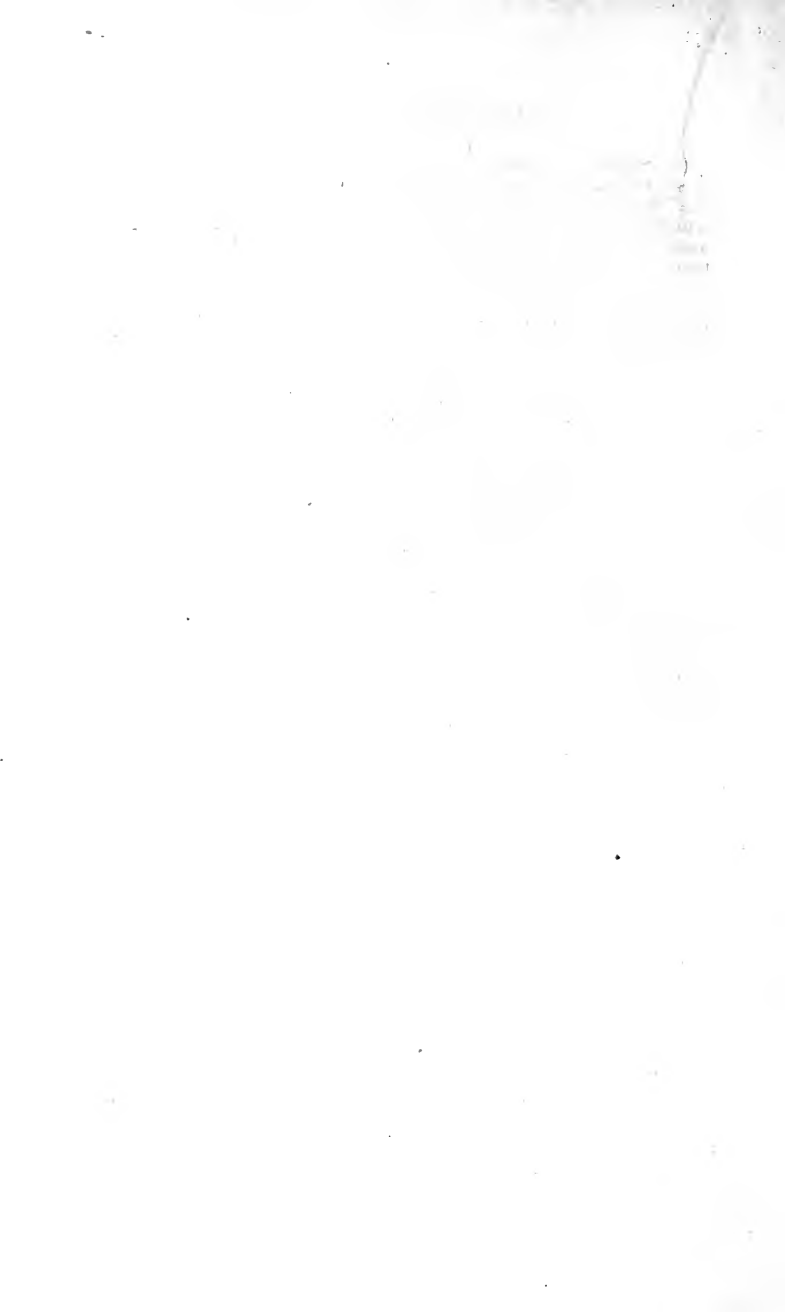
Provided that in the case of excess profits duty and munitions Exchequer payments—

(a) if the transfer takes place after the date when the duty or payments become payable there shall be deducted from the value so attributed to the stock or bonds the amount of any interest which accrued due on the stock or bonds after that date; and

(b) if the transfer takes place before that date, a sum equal to the value thereof so ascertained as aforesaid shall be deemed to be money deposited under section fifty-four of the Finance Act, 1916, and interest thereon shall be allowed in accordance with that section.

(5) For the purposes of this section interest shall be deemed to accrue from day to day.

(6) Section sixty-one of the Finance Act, 1916, is hereby repealed.



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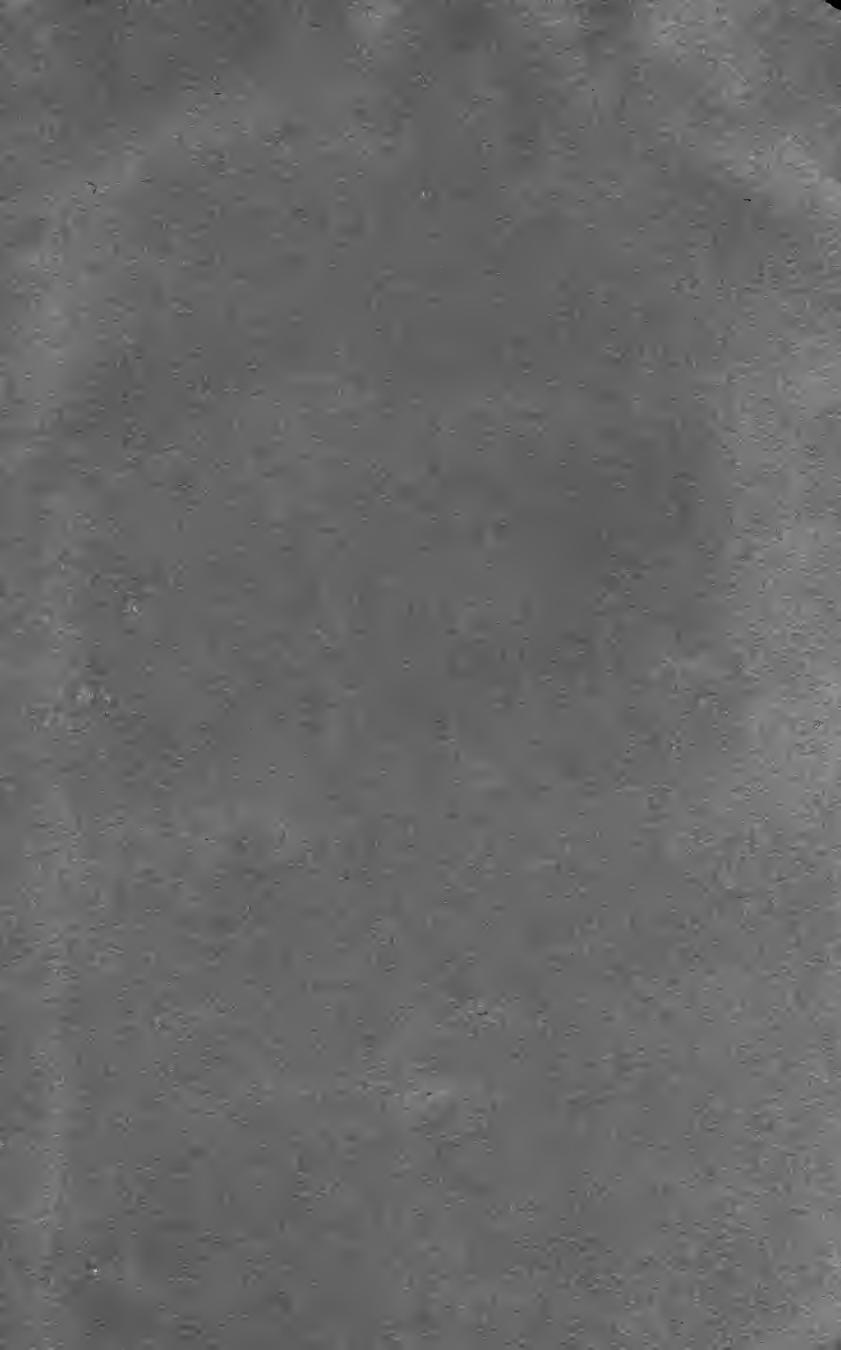
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